

ORIGINAL

Leg

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14 June 1985

MEMORANDUM FOR: AA/OSD/OGC
LC/ALD/OGC

FROM:

Legislation Division
Office of Legislative Liaison

SUBJECT: Request for Comments - S. 1200

1. Attached please find a copy of S. 1200. This appears to this Congress' Simpson-Mazzoli Bill, although this year it is being referred to as the "Simpson-Nobody" Bill.

2. I ask that you review it and provide me with your comments. I understand that the DC/ALD/OGC had a concern about last year's bill. I would ask him to see if that same concern exists with regard to this bill.

Attachment
as stated

Distribution:

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LEG/OLL: (20 June 1985)

6 JUN 1985

II

99TH CONGRESS
1ST SESSION**S. 1200**

To amend the Immigration and Nationality Act to effectively control unauthorized immigration to the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 23 (legislative day, APRIL 15), 1985

Mr. SIMPSON introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to effectively control unauthorized immigration to the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; REFERENCES IN ACT.**

4 (a) **SHORT TITLE.**—This Act may be cited as the “Im-
5 migration Reform and Control Act of 1985”.

6 (b) **AMENDMENTS TO IMMIGRATION AND NATIONAL-**
7 **ITY ACT.**—Except as otherwise specifically provided in this
8 Act, whenever in this Act an amendment or repeal is ex-
9 pressed as an amendment to, or repeal of, a provision, the

- 1 reference shall be deemed to be made to the Immigration and
2 Nationality Act.

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Sec. 402. Reports on unauthorized alien employment and discrimination in employment.

Sec. 403. Report on visa waiver pilot program.

Sec. 404. Presidential reports on any legalization program.

1 TITLE I—CONTROL OF ILLEGAL IMMIGRATION

2 PART A—FUNDING FOR IMPROVED ENFORCEMENT

3 SEC. 101. AUTHORIZATION OF APPROPRIATIONS FOR EN-
4 FORCEMENT AND SERVICE ACTIVITIES OF THE
5 IMMIGRATION AND NATURALIZATION SERVICE
6 AND WAGE AND HOUR ENFORCEMENT.

7 (a) TWO ESSENTIAL ELEMENTS.—It is the sense of
8 Congress that two essential elements of the program of immi-
9 gration control established by this Act are—

10 (1) an increase in the border patrol and other in-
11 spection and enforcement activities of the Immigration
12 and Naturalization Service and of other appropriate
13 Federal agencies in order to prevent and deter the ille-
14 gal entry of aliens into the United States and the viola-
15 tion of the terms of their entry, and

16 (2) an increase in examinations and other service
17 activities of the Immigration and Naturalization Serv-
18 ice and other appropriate Federal agencies in order to
19 ensure prompt and efficient adjudication of petitions
20 and applications provided for under the Immigration
21 and Nationality Act.

22 (b) INCREASED AUTHORIZATION OF APPROPRIATIONS
23 FOR INS.—Section 404 (8 U.S.C. 1101 note) is amended to
24 read as follows:

1 "AUTHORIZATION OF APPROPRIATIONS

2 "SEC. 404. There are authorized to be appropriated to
3 the Department of Justice for the Immigration and Natural-
4 ization Service—

5 "(1) for fiscal year 1986, \$840,000,000, and

6 "(2) for fiscal year 1987, \$830,000,000."

7 (c) SENSE OF CONGRESS REGARDING ENFORCEMENT
8 OF THE IMMIGRATION LAWS.—It is the sense of the Con-
9 gress that—

10 (1) the immigration laws of the United States
11 should be enforced vigorously and uniformly, and

12 (2) in the enforcement of such laws, the Attorney
13 General should take due and deliberate actions neces-
14 sary to safeguard the constitutional rights, personal
15 safety, and human dignity of United States citizens and
16 aliens.

17 (d) SUPPLEMENTAL AUTHORIZATION OF APPROPRIA-
18 TIONS FOR WAGE AND HOUR ENFORCEMENT.—There are
19 authorized to be appropriated, in addition to such sums as
20 may be available for such purposes, such sums as may be
21 necessary to the Department of Labor for enforcement activi-
22 ties of the Wage and Hour Division and the Office of Federal
23 Contract Compliance Programs within the Employment
24 Standards Administration of the Department in order to deter

1 the employment of unauthorized aliens and remove the eco-
2 nomic incentive for employers to exploit and use such aliens.

3 **SEC. 102. USER FEES.**

4 (a) **AUTHORIZATION OF CERTAIN USER FEES.**—Sec-
5 tion 281 (8 U.S.C. 1351) is amended—

6 (1) by amending the heading to read as follows:

7 “NONIMMIGRANT VISA FEES AND ALIEN USER FEES”;

8 (2) by inserting “(a) NONIMMIGRANT VISA
9 FEES.—” after “SEC. 281.”; and

10 (3) by adding at the end the following new sub-
11 section:

12 “(b) **ALIEN USER FEES.**—The Attorney General, in
13 consultation with the Secretary of State, may impose fees on
14 aliens with respect to their use of border facilities or services
15 of the Service in such amounts as may reasonably reflect the
16 portion of costs of maintenance and operation of such facili-
17 ties and provision of such services attributable to aliens’ use
18 of such facilities and services.”.

19 (b) **CONFORMING AMENDMENT TO TABLE OF CON-**
20 **TENTS.**—The item in the table of contents relating to section
21 281 is amended to read as follows:

“Sec. 281. Nonimmigrant visa fees and alien user fees.”.

1 PART B—INCREASED PENALTIES FOR IMMIGRATION-
2 RELATED VIOLATIONS
3 SEC. 111. UNLAWFUL TRANSPORTATION OF ALIENS TO THE
4 UNITED STATES.

5 (a) CRIMINAL PENALTIES.—Subsection (a) of section
6 274 (8 U.S.C. 1324) is amended to read as follows:

7 “(a) CRIMINAL PENALTIES.—(1) Any person who—

8 “(A) knowing that a person is an alien, brings to
9 or attempts to bring to the United States in any
10 manner whatsoever such person at a place other than
11 a designated port of entry or place other than as desig-
12 nated by the Commissioner, regardless of whether such
13 alien has received prior official authorization to come
14 to, enter, or reside in the United States and regardless
15 of any future official action which may be taken with
16 respect to such alien;

17 “(B) knowingly or in reckless disregard of the fact
18 that an alien has come to, entered, or remains in the
19 United States in violation of law, transports, or moves
20 or attempts to transport or move such alien within the
21 United States by means of transportation or otherwise,
22 in furtherance of such violation of law; or

23 “(C) knowingly or in reckless disregard of the fact
24 that an alien has come to, entered, or remains in the
25 United States in violation of law, conceals, harbors, or

1 shields from detection such alien in any place, includ-
2 ing any building or any means of transportation,
3 shall be fined, imprisoned not more than five years, or both,
4 for each alien in respect to whom any violation of this subsec-
5 tion occurs. For the purposes of subparagraph (C) of this
6 paragraph, employment (including the usual and normal prac-
7 tices incident to employment) by itself does not constitute
8 harboring.

9 “(2) Any person who, knowingly or in reckless disre-
10 gard of the fact that an alien has not received prior official
11 authorization to come to, enter, or reside in the United
12 States, brings to or attempts to bring to the United States in
13 any manner whatsoever, such alien, regardless of any official
14 action which may later be taken with respect to such alien
15 shall, for each transaction constituting a violation of this sub-
16 section, regardless of the number of aliens involved—

17 “(A) be fined, or imprisoned not more than one
18 year, or both; or

19 “(B) in the case of—

20 “(i) a second offense,

21 “(ii) an offense done for the purpose of com-
22 mercial advantage or private financial gain,

23 “(iii) an offense in which the alien is not
24 upon arrival immediately brought and presented

1 to an appropriate immigration officer at a desig-
2 nated port of entry,
3 be fined, or imprisoned not more than five years, or
4 both.”.

5 (b) MISCELLANEOUS AMENDMENTS TO SEIZURE AND
6 FORFEITURE PROCEDURES.—Subsection (b) of such section
7 is amended—

8 (1) in paragraph (1) before subparagraph (A) by
9 striking out “is used” and inserting in lieu thereof “has
10 been or is being used”,

11 (2) by striking out “subject to seizure and” in
12 paragraph (1) and inserting in lieu thereof “seized and
13 subject to”,

14 (3) by inserting “or is being” after “has been” in
15 paragraph (2),

16 (4) by striking out “conveyances” in paragraph
17 (3) and inserting in lieu thereof “property”,

18 (5) by inserting “, or the Federal Maritime Com-
19 mission if appropriate under section 203(i) of the Fed-
20 eral Property and Administrative Services Act of
21 1949,” in paragraph (4)(C) after “General Services
22 Administration”,

23 (6) in paragraph (4)—

24 (A) by striking out “or” at the end of sub-
25 paragraph (B),

1 (B) by striking out the period at the end of
2 subparagraph (C) and inserting in lieu thereof
3 “; or”, and

4 (C) by inserting after such subparagraph the
5 following new subparagraph:

6 “(D) dispose of the conveyance in accordance
7 with the terms and conditions of any petition of remis-
8 sion or mitigation of forfeiture granted by the Attorney
9 General.”;

10 (7) by striking out “: *Provided, That*” in para-
11 graph (5) and inserting in lieu thereof “, except that”,

12 (8) by striking out “was not lawfully entitled to
13 enter, or reside within, the United States” in para-
14 graph (5) and inserting in lieu thereof “had not re-
15 ceived prior official authorization to come to, enter, or
16 reside in the United States or that such alien had come
17 to, entered, or remained in the United States in viola-
18 tion of law” each place it appears, and

19 (9) by inserting “or of the Department of State”
20 in paragraph (5)(B) after “Service”.

21 **SEC. 112. FRAUD AND MISUSE OF CERTAIN IMMIGRATION-RE-**
22 **LATED DOCUMENTS.**

23 (a) APPLICATION TO ADDITIONAL DOCUMENTS.—Sec-
24 tion 1546 of title 18, United States Code, is amended—

25 (1) by amending the heading to read as follows:

1 **“§ 1546. Fraud and misuse of visas, permits, and other**
2 **documents”;**

3 (2) by striking out “or other document required
4 for entry into the United States” in the first paragraph
5 and inserting in lieu thereof “border crossing card,
6 alien registration receipt card, or other document pre-
7 scribed by statute or regulation for entry into or as evi-
8 dence of authorized stay or authorized employment in
9 the United States”;

10 (3) by striking out “or document” in the first
11 paragraph and inserting in lieu thereof “border cross-
12 ing card, alien registration receipt card, or other docu-
13 ment prescribed by statute or regulation for entry into
14 or as evidence of authorized stay or authorized employ-
15 ment in the United States”;

16 (4) by inserting “(a)” before “Whoever” the first
17 place it appears; and

18 (5) by adding at the end the following new sub-
19 sections:

20 “(b) Whoever uses—

21 “(1) an identification document, knowing (or
22 having reason to know) that the document was not
23 issued lawfully for the use of the possessor,

24 “(2) a identification document knowing (or having
25 reason to know) that the document is false, or

26 “(3) a false attestation,

1 for the purpose of satisfying a requirement of section 274A(b)
2 of the Immigration and Nationality Act, shall be fined, or
3 imprisoned not more than two years, or both.

4 “(c) This section does not prohibit any lawfully author-
5 ized investigative, protective, or intelligence activity of a law
6 enforcement agency of the United States, a State, or a subdi-
7 vision of a State, or of an intelligence agency of the United
8 States, or any activity authorized under title V of the Orga-
9 nized Crime Control Act of 1970 (18 U.S.C. note prec.
10 3481).”.

11 (b) CONFORMING AMENDMENT TO TABLE OF SEC-
12 TIONS.—The item relating to section 1546 in the table of
13 sections of chapter 75 of such title is amended to read as
14 follows:

“1546. Fraud and misuse of visas, permits, and other documents.”.

15 **SEC. 113. RESTRICTIONS ON ADJUSTMENT OF STATUS.**

16 (a) REQUIRING LEGAL STATUS AT TIME OF APPLICA-
17 TION.—Subsection (c) of section 245 (8 U.S.C. 1255), relat-
18 ing to nonimmigrants who may not adjust to immigrant
19 status while in the United States, is amended to read as
20 follows:

21 “(c) ALIENS FOR WHOM THIS SECTION DOES NOT
22 APPLY.—Subsection (a) shall not apply to the following
23 aliens:

24 “(1) An alien crewman.

1 “(2)(A) Except as provided in subparagraph (B),
2 an alien who—

3 “(i) continues in or accepts unauthorized em-
4 ployment before the date of filing an application
5 for adjustment of status,

6 “(ii) is not in legal immigration status on the
7 date of filing the application for adjustment of
8 status, or

9 “(iii) has failed to maintain continuously a
10 legal status since the date of entry into the United
11 States.

12 “(B) Subparagraph (A) shall not apply to an alien
13 who is—

14 “(i) an immediate relative, described in
15 section 201(b), or

16 “(ii) a special immigrant described in section
17 101(a)(27)(H).

18 “(3) An alien admitted in transit without a visa
19 under section 212(d)(4)(C).”.

20 (b) EFFECTIVE DATE.—The amendment made by sub-
21 section (a) shall apply to applications for adjustment of status
22 filed before, on, or after the date of the enactment of this Act.

1 PART C—CONTROL OF UNAUTHORIZED EMPLOYMENT OF
2 ALIENS

3 SEC. 121. MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS
4 UNLAWFUL.

5 (a) IN GENERAL.—(1) Chapter 8 of title II is amended
6 by inserting after section 274 (8 U.S.C. 1324) the following
7 new section:

8 “UNLAWFUL EMPLOYMENT OF ALIENS

9 “SEC. 274A. (a) MAKING EMPLOYMENT OF UNAU-
10 THORIZED ALIENS UNLAWFUL.—

11 “(1) HIRING, RECRUITING, OR REFERRING.—It is
12 unlawful for a person or other entity to hire, or to re-
13 cruit or refer for a fee or other consideration, for em-
14 ployment in the United States an alien knowing the
15 alien is an unauthorized alien (as defined in subsection
16 (h)(2)) with respect to such employment.

17 “(2) CONTINUING EMPLOYMENT.—It is unlawful
18 for a person or other entity, after hiring an alien for
19 employment to continue to employ the alien in the
20 United States knowing the alien is (or has become) an
21 unauthorized alien with respect to such employment.

22 “(3) DEFENSES.—

23 “(A) COMPLIANCE WITH EMPLOYMENT
24 VERIFICATION SYSTEM.—A person or entity that
25 establishes that it has complied in good faith with
26 the requirements of subsection (b) with respect to

1 the hiring, recruiting, or referral for employment
2 of an alien in the United States has established an
3 affirmative defense that the person or entity has
4 not violated paragraph (1) with respect to such
5 hiring, recruiting, or referral.

6 “(B) PRESUMPTION FOR EMPLOYERS OF 4
7 OR MORE EMPLOYEES.—If a person or entity is
8 employing four or more employees and hires (or
9 recruits or refers for a fee or other consideration)
10 for employment in the United States an unauthor-
11 ized alien, for purposes of paragraph (1) the
12 person or entity shall be presumed to have known
13 that the alien was an unauthorized alien unless
14 the person or entity has complied with the re-
15 quirements of subsection (b) with respect to the
16 hiring (or recruiting or referral) of that alien.

17 “(C) PRESUMPTION FOR LARGE RECRUIT-
18 ERS OR REFERRERS.—If a person or entity re-
19 cruits or refers for a fee or other consideration
20 more than four individuals in any 12-month period
21 and recruits or refers for a fee or other consider-
22 ation for employment in the United States an un-
23 authorized alien, for purposes of paragraph (1) the
24 person or entity shall be considered to have
25 known that the alien was an unauthorized alien

1 unless the person or entity has complied with the
2 requirements of subsection (b) with respect to re-
3 cruiting or referral of that alien.

4 “(D) REBUTTAL OF PRESUMPTION.—The
5 presumption established by subparagraph (B) or
6 (C) may be rebutted through the presentation of
7 clear and convincing evidence which contradicts
8 the presumption.

9 “(4) VIOLATORS SUBJECT TO ORDER.—A person
10 or entity that violates paragraph (1) or (2) is subject to
11 an order under subsection (d).

12 “(b) EMPLOYMENT VERIFICATION SYSTEM.—Except
13 as provided in subsection (c), the requirements referred to in
14 subsections (a)(3) and (d)(2)(C)(i) are, in the case of a person
15 or other entity hiring, recruiting, or referring an individual
16 for employment in the United States, the requirements speci-
17 fied in the following four paragraphs:

18 “(1) ATTESTATION AFTER EXAMINATION OF
19 DOCUMENTATION.—

20 “(A) IN GENERAL.—The person or entity
21 must attest, under penalty of perjury and on a
22 form designated or established by the Attorney
23 General by regulation, that it has verified that the
24 individual is not an unauthorized alien by ex-
25 amining—

1 “(i) a document described in subpara-
2 graph (B), or

3 “(ii) a document described in subpara-
4 graph (C) and a document described in sub-
5 paragraph (D).

6 A person or entity has complied with the require-
7 ment of this paragraph with respect to examina-
8 tion of a document if the document reasonably ap-
9 pears on its face to be genuine.

10 “(B) DOCUMENTS ESTABLISHING BOTH EM-
11 PLOYMENT AUTHORIZATION AND IDENTITY.—A
12 document described in this subparagraph is an in-
13 dividual’s—

14 “(i) United States passport;

15 “(ii) certification of United States
16 citizenship;

17 “(iii) certificate of naturalization;

18 “(iv) unexpired foreign passport, if the
19 passport has an appropriate, unexpired
20 endorsement authorizing the individual’s em-
21 ployment in the United States; or

22 “(v) resident alien card or other alien
23 registration card, if the card—

24 “(I) contains a photograph of the
25 individual or such other personal identi-

1 fying information relating to the individ-
2 ual as the Attorney General finds, by
3 regulation, sufficient for purposes of this
4 subsection, and

5 “(II) is evidence of authorization of
6 employment in the United States.

7 “(C) DOCUMENTS EVIDENCING EMPLOY-
8 MENT AUTHORIZATION.—A document described
9 in this subparagraph is an individual’s—

10 “(i) social security account number card
11 (other than such a card which specifies on
12 the face that the issuance of the card does
13 not authorize employment in the United
14 States);

15 “(ii) certificate of birth in the United
16 States or establishing United States national-
17 ity at birth, which certificate the Attorney
18 General finds, by regulation, to be acceptable
19 for purposes of this section; or

20 “(iii) other documentation evidencing
21 authorization of employment in the United
22 States which the Attorney General finds, by
23 regulation, to be acceptable for purposes of
24 this section.

1 “(D) DOCUMENTS ESTABLISHING IDENTITY
2 OF INDIVIDUAL.—A document described in this
3 subparagraph is an individual’s—

4 “(i) border crossing card or similar alien
5 identification document issued by the Attor-
6 ney General to aliens and designated for use
7 for this purpose;

8 “(ii) driver’s license or similar document
9 issued for the purpose of identification by a
10 State, if it contains a photograph of the indi-
11 vidual or such other personal identifying
12 information relating to the individual as the
13 Attorney General finds, by regulation, suffi-
14 cient for purposes of this section; or

15 “(iii) in the case of individuals under 16
16 years of age or in a State which does not
17 provide for issuance of an identification docu-
18 ment (other than a driver’s license) referred
19 to in clause (ii), documentation of personal
20 identity of such other type as the Attorney
21 General finds, by regulation, provides a reli-
22 able means of identification.

23 “(2) INDIVIDUAL ATTESTATION OF EMPLOYMENT
24 AUTHORIZATION.—The individual must attest, under
25 penalty of perjury on the form designated or estab-

lished for purposes of paragraph (1), that the individual is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Attorney General to be hired, recruited, or referred for such employment.

“(3) RETENTION OF VERIFICATION FORM.—After completion of such form in accordance with paragraphs (1) and (2), the person or entity must retain the form and make it available for inspection by officers of the Service or the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual and ending—

“(A) in the case of the recruiting or referral for a fee or other consideration (without hiring) of an individual, three years after the date of the recruiting or referral, and

“(B) in the case of the hiring of an individual—

“(i) three years after the date of such hiring, or

“(ii) one year after the date the individual’s employment is terminated, whichever is later.

1 “(4) UNIFORM VERIFICATION POLICY.—The
2 person or entity must apply the requirements of the
3 previous three paragraphs uniformly to all individuals
4 hired (or recruited or referred for a fee or other consid-
5 eration).

6 “(5) COPYING OF DOCUMENTATION PERMIT-
7 TED.—Notwithstanding any other provision of law, the
8 person or entity may copy a document presented by an
9 individual pursuant to this subsection and may retain
10 the copy, but only (except as otherwise permitted
11 under law) for the purpose of complying with the
12 requirements of this subsection.

13 “(6) LIMITATION ON USE OF ATTESTATION
14 FORM.—A form designated or established by the Attor-
15 ney General under this subsection and any information
16 contained in or appended to such form, may not be
17 used for purposes other than for enforcement of this
18 Act and sections 1001, 1028, 1546, and 1621 of title
19 18, United States Code.

20 “(c) EVALUATION AND CHANGES IN EMPLOYMENT
21 VERIFICATION SYSTEM.—

22 “(1) PRESIDENTIAL MONITORING AND IMPROVE-
23 MENTS IN SYSTEM.—

24 “(A) MONITORING.—The President shall
25 provide for the monitoring and evaluation of the

1 degree to which the employment verification
2 system established under subsection (b) provides a
3 secure system to determine employment eligibility
4 in the United States and shall examine the suit-
5 ability of existing Federal and State identification
6 systems for use for this purpose.

7 “(B) IMPROVEMENTS TO ESTABLISH
8 SECURE SYSTEM.—To the extent that the system
9 established under subsection (b) is found not to be
10 a secure system to determine employment eligibil-
11 ity in the United States, the President shall, sub-
12 ject to paragraph (3) and taking into account the
13 results of any demonstration projects conducted
14 under paragraph (4), implement such changes in
15 (including additions to) the requirements of sub-
16 section (b) as may be necessary to establish a
17 secure system to determine employment eligibility
18 in the United States. Such changes in the system
19 may be implemented only if the changes conform
20 to the requirements of paragraph (2).

21 “(C) REQUIRING USE OF COUNTERFEIT-RE-
22 SISTANT SOCIAL SECURITY CARDS.—The Presi-
23 dent may require, without regard to paragraph
24 (2), that the only social security account number
25 cards which may be presented in order to comply

1 with subsection (b)(1)(C)(i) are such cards as are
2 in a counterfeit-resistant form consistent with the
3 second sentence of section 205(e)(2)(D) of the
4 Social Security Act.

5 “(2) RESTRICTIONS ON CHANGES IN SYSTEM.—
6 Except as provided in paragraph (1)(C), any change
7 the President proposes to implement under paragraph
8 (1) in the verification system must be designed in a
9 manner so the verification system, as so changed,
10 meets the following requirements:

11 “(A) RELIABLE DETERMINATION OF IDEN-
12 TITY.—The system must be capable of reliably
13 determining whether—

14 “(i) a person with the identity claimed
15 by an employee or prospective employee is
16 eligible to work, and

17 “(ii) the employee or prospective em-
18 ployee is claiming the identity of another in-
19 dividual.

20 “(B) USING OF COUNTERFEIT-RESISTANT
21 DOCUMENTS.—If the system requires that a docu-
22 ment be presented to or examined by an employ-
23 er, the document must be in a form which is re-
24 sistant to counterfeiting and tampering.

1 “(C) LIMITED USE OF SYSTEM.—Any per-
2 sonal information utilized by the system may not
3 be made available to Government agencies, em-
4 ployers, and other persons except to the extent
5 necessary to verify that an individual is not an
6 unauthorized alien.

7 “(D) PRIVACY OF INFORMATION.—The
8 system must protect the privacy and security of
9 personal information and identifiers utilized in the
10 system.

11 “(E) LIMITED DENIAL OF VERIFICATION.—
12 A verification that an employee or prospective
13 employee is eligible to be employed in the United
14 States may not be withheld or revoked under the
15 system for any reason other than that the employ-
16 ee or prospective employee is an unauthorized
17 alien.

18 “(F) LIMITED USE FOR LAW ENFORCEMENT
19 PURPOSES.—The system may not be used for law
20 enforcement purposes, other than for enforcement
21 of this Act or sections 1001, 1028, 1546, and
22 1621 of title 18, United States Code.

23 “(G) RESTRICTION ON USE OF NEW DOCU-
24 MENTS.—If the system requires individuals to
25 present a new card or other document (designed

1 specifically for use for this purpose) at the time of
2 hiring, recruitment, or referral, then such docu-
3 ment may not be required to be presented for any
4 purpose other than under this Act (or enforcement
5 of sections 1001, 1028, 1546, and 1621 of title
6 18, United States Code) nor to be carried on
7 one's person.

8 “(3) NOTICE TO CONGRESS BEFORE IMPLE-
9 MENTING CHANGES.—

10 “(A) IN GENERAL.—The President may not
11 implement any change under paragraph (1) unless
12 at least—

13 “(i) 60 days, or

14 “(ii) in the case of a major change de-
15 scribed in subparagraph (D), two years,
16 before the date of implementation of the change,
17 the President has prepared and transmitted to the
18 Committee on the Judiciary of the House of Rep-
19 resentatives and to the Committee on the Judici-
20 ary of the Senate a written report setting forth
21 the proposed change. The President promptly
22 shall cause to have printed in the Federal Regis-
23 ter the substance of any major change (described
24 in subparagraph (D)) proposed and reported to
25 Congress.

1 “(B) CONTENTS OF REPORT.—In any report
2 under subparagraph (A) the President shall in-
3 clude recommendations for the establishment of
4 civil and criminal sanctions for unauthorized use
5 or disclosure of the information or identifiers con-
6 tained in such system.

7 “(C) CONGRESSIONAL REVIEW OF MAJOR
8 CHANGES.—

9 “(i) HEARINGS AND REVIEW.—The
10 Committees on the Judiciary of the House of
11 Representatives and of the Senate shall
12 cause to have printed in the Congressional
13 Record the substance of any major change
14 described in subparagraph (D), shall hold
15 hearings respecting the feasibility and desir-
16 ability of implementing such a change, and,
17 within the two year period before implemen-
18 tation, shall report to their respective Houses
19 findings on whether or not such a change
20 should be implemented.

21 “(ii) CONGRESSIONAL ACTION.—No
22 major change may be implemented unless the
23 Congress specifically provides, in an appro-
24 priations or other Act, for funds for imple-
25 mentation of the change.

1 “(D) MAJOR CHANGES REQUIRING TWO
2 YEARS NOTICE AND CONGRESSIONAL REVIEW.—

3 As used in this paragraph, the term ‘major
4 change’ means a change which would—

5 “(i) require an individual to present a
6 new card or other document (designed specif-
7 ically for use for this purpose) at the time of
8 hiring, recruitment, or referral, or

9 “(ii) provide for a telephone verification
10 system similar to that described under para-
11 graph (4)(B)(ii);

12 but does not include a change in any card used
13 for accounting purposes under the Social Security
14 Act.

15 “(4) DEMONSTRATION PROJECTS.—

16 “(A) AUTHORITY.—The President may un-
17 dertake demonstration projects (consistent with
18 paragraph (2)) of different changes in the require-
19 ments of subsection (b). No such project may
20 extend over a period of longer than three years.

21 “(B) REPORTS ON PROJECTS.—The Presi-
22 dent shall report to the Congress on the results of
23 demonstration projects conducted under this
24 paragraph.

25 “(d) COMPLIANCE.—

1 “(1) COMPLAINTS AND INVESTIGATIONS.—The
2 Attorney General shall establish procedures—

3 “(A) for individuals and entities to file writ-
4 ten, signed complaints respecting potential viola-
5 tions of subsection (a),

6 “(B) for the investigation of those complaints
7 which, on their face, have a substantial probability
8 of validity,

9 “(C) for the investigation of such other viola-
10 tions of subsection (a) as the Attorney General de-
11 termines to be appropriate, and

12 “(D) for the designation in the Service of a
13 unit which has, as its primary duty, the prosecu-
14 tion of cases of violations of subsection (a) under
15 this subsection.

16 “(2) ORDER FOR VIOLATIONS.—

17 “(A) IN GENERAL.—If, after notice and op-
18 portunity to request a hearing respecting a viola-
19 tion of subsection (a), the immigration judge
20 determines, upon the preponderance of the evi-
21 dence received, that a person or entity named in
22 the complaint has violated subsection (a), the
23 judge shall state his findings of fact and issue and
24 cause to be served on such person or entity an
25 order.

1 “(B) CIVIL PENALTY AS PART OF ORDER.—

2 An order under subparagraph (A) shall require the
3 person or entity to cease and desist from such vio-
4 lations and to pay a civil penalty in an amount
5 of—

6 “(i) not less than \$100 and not more
7 than \$2,000 for each unauthorized alien with
8 respect to whom a violation of subsection (a)
9 occurred,

10 “(ii) not less than \$2,000 and not more
11 than \$5,000 for each such alien in the case
12 of a person or entity previously subject to an
13 order under this subsection, or

14 “(iii) not less than \$3,000 and not more
15 than \$10,000 for each such alien in the case
16 of a person or entity which has engaged or is
17 engaging in a pattern or practice of such vio-
18 lations.

19 “(C) ADDITIONAL REMEDIES AS PART OF
20 ORDER.—An order under subparagraph (A) may
21 require the person or entity—

22 “(i) to comply with the requirements of
23 subsection (b) (or subsection (c) if applicable)
24 with respect to individuals hired (or recruited
25 or referred for employment for a fee or other

1 consideration) during a period of up to three
2 years, and

3 “(ii) to take such other remedial action
4 as is appropriate.

5 “(D) DISMISSAL OF COMPLAINTS.—If upon
6 the preponderance of the evidence taken, the
7 judge is of the opinion that the person or entity
8 named in the complaint has not violated subsec-
9 tion (a), the judge shall state his findings of fact
10 and shall issue an order dismissing the complaint.

11 “(3) AUTHORITY IN INVESTIGATIONS.—In con-
12 ducting investigations and hearings under this sub-
13 section—

14 “(A) immigration officers and immigration
15 judges shall have reasonable access to examine
16 evidence of any person or entity being investi-
17 gated, and

18 “(B) immigration judges, by subpoena, may
19 compel the attendance of witnesses and the pro-
20 duction of evidence at any designated place or
21 hearing.

22 In case of contumacy or refusal to obey a subpoena
23 lawfully issued under this paragraph and upon applica-
24 tion of the Attorney General, an appropriate district
25 court of the United States may issue an order requiring

1 compliance with such subpoena and any failure to obey
2 such order may be punished by such court as a
3 contempt thereof.

4 “(4) TREATMENT OF CERTAIN SUBDIVISIONS.—

5 In applying this subsection in the case of a person or
6 entity composed of distinct, physically separate subdivi-
7 sions each of which provides separately for the hiring,
8 recruiting, or referring for employment without refer-
9 ence to the practices of, or under the control of, or
10 common control with, another subdivision, each such
11 subdivision shall be considered a separate person or
12 entity.

13 “(5) ADMINISTRATIVE APPELLATE REVIEW.—

14 The Attorney General may provide for the administra-
15 tive appellate review of the determination of an immi-
16 gration judge under this subsection by an appropriate
17 administrative appellate body.

18 “(e) JUDICIAL REVIEW OF ORDERS.—Judicial review
19 of orders under this subsection shall be exclusively under the
20 procedures provided in chapter 158 of title 28, United States
21 Code, except as follows:

22 “(1) FILING DEADLINE.—Petitions for review
23 may be filed not later than 45 days after the date of
24 the final order.

1 “(2) VENUE.—The venue of any petition for
2 review under this subsection shall be in the judicial cir-
3 cuit in which the administrative proceedings before an
4 immigrant judge were conducted in whole or in part,
5 or in the judicial circuit wherein is the residence of the
6 petitioner, but not in more than one circuit.

7 “(3) SERVICE.—In the case of review sought by
8 an entity other than the Service, the action shall be
9 brought against the Immigration and Naturalization
10 Service as respondent and service of the petition to
11 review shall be made upon the Attorney General and
12 upon the official of the Service in charge of the Service
13 district in which the office of the clerk of the court is
14 located.

15 “(4) SUBSTANTIAL EVIDENCE.—The petition
16 shall be determined solely upon the administrative
17 record upon which the order is based and the immigra-
18 tion judge’s findings of fact, if supported by substantial
19 evidence on the record considered as a whole, shall be
20 conclusive.

21 “(5) TYPEWRITTEN BRIEFS.—It shall not be nec-
22 essary to print the record or any part thereof, or the
23 brief, and the court shall review the proceedings on a
24 typewritten record and on typewritten briefs.

1 In any judicial review of an immigration judge's order under
2 this subsection, the court may provide for such order of en-
3 forcement as may be appropriate. Section 279 shall not apply
4 to causes arising under this section.

5 “(f) ENFORCEMENT OF ORDERS.—If a person or entity
6 fails to comply with a final order issued under subsection (d)
7 against the person or entity, the Attorney General shall file a
8 suit to seek compliance with the order in any appropriate
9 district court of the United States. In any such suit, the va-
10 lidity and appropriateness of the final order imposing the as-
11 sessment shall not be subject to review.

12 “(g) MISCELLANEOUS PROVISIONS.—

13 “(1) DOCUMENTATION.—In providing documenta-
14 tion or endorsement of authorization of aliens (other
15 than aliens lawfully admitted for permanent residence)
16 authorized to be employed in the United States, the
17 Attorney General shall provide that any limitations
18 with respect to the period or type of employment or
19 employer shall be conspicuously stated on the docu-
20 mentation or endorsement.

21 “(2) PREEMPTION.—The provisions of this sec-
22 tion preempt any State or local law imposing civil or
23 criminal sanctions (other than through licensing and
24 similar laws) upon those who employ, or recruit or

1 refer for a fee or other consideration for employment,
2 unauthorized aliens.

3 “(h) DEFINITIONS.—As used in this section—

4 “(1) IMMIGRATION JUDGE.—The term ‘immigra-
5 tion judge’ means an immigration officer specially des-
6 ignated to hear cases under this section.

7 “(2) UNAUTHORIZED ALIEN.—The term ‘unau-
8 thorized alien’ means, with respect to the employment
9 of an alien at a particular time, that the alien is not at
10 that time either (A) an alien lawfully admitted for per-
11 manent residence, or (B) authorized to be so employed
12 by this Act or by the Attorney General.”.

13 (b) EFFECTIVE DATES.—(1) Except as otherwise pro-
14 vided in this subsection or subsection (c), the amendment
15 made by subsection (a) shall take effect on the date of the
16 enactment of this Act.

17 (2) Paragraph (1) of section 274A(a) of the Immigration
18 and Nationality Act, making unlawful the hiring, recruiting,
19 or referral of unauthorized aliens for employment, shall only
20 apply to the hiring, recruiting, or referral of individuals oc-
21 curring after the date of the enactment of this Act.

22 (3) Paragraph (2) of section 274A(a) of the Immigration
23 and Nationality Act, relating to making unlawful the continu-
24 ing employment of unauthorized aliens, shall only apply to

1 aliens who are hired after the date of the enactment of this
2 Act.

3 (4) Section 274A(g)(2) of the Immigration and National-
4 ity Act takes effect on the first day of the seventh month
5 beginning after the date of the enactment of this Act.

6 (c) PROMULGATION OF REGULATIONS AND EDUCA-
7 TION AND WARNING PERIOD.—(1) The Attorney General
8 shall, not later than the first day of the seventh month begin-
9 ning after the date of the enactment of this Act, first issue, on
10 an interim or other basis, such regulations as may be neces-
11 sary in order to implement section 274A of the Immigration
12 and Nationality Act.

13 (2) The Attorney General, in cooperation with the Sec-
14 retaries of Agriculture, Commerce, Health and Human Serv-
15 ices, Labor, and the Treasury and the Administrator of the
16 Small Business Administration and with organizations repre-
17 senting or assisting employers, employees, and employment
18 agencies, shall take steps to broadly disseminate forms and
19 information and provide for public education respecting the
20 provisions of section 274A of the Immigration and National-
21 ity Act.

22 (3) Where the Attorney General has reason to believe
23 that a person or entity may have violated subsection (a) of
24 section 274A of the Immigration and Nationality Act during
25 the six-month period beginning on the first day of the first

1 month beginning after the date of the enactment of this Act,
2 the Attorney General shall notify such person or entity of
3 such belief and shall not conduct any proceeding, nor impose
4 any order, under such section on the basis of such alleged
5 violation or violations.

6 (4) Where the Attorney General has reason to believe
7 that a person or entity may have violated subsection (a) of
8 section 274A of the Immigration and Nationality Act during
9 the subsequent six-month period, the Attorney General shall,
10 in the first instance of such an alleged violation (or violations)
11 occurring during such period, provide a warning to the
12 person or entity that such a violation or violations may have
13 occurred and shall not conduct any proceeding, nor impose
14 any penalty, under such section on the basis of such alleged
15 violation or violations.

16 (d) CONFORMING AMENDMENTS TO MIGRANT AND
17 SEASONAL AGRICULTURAL WORKER PROTECTION ACT.—

18 (1) The Migrant and Seasonal Agricultural Worker Protec-
19 tion Act (Public Law 97-470) is amended—

20 (A) by striking out “101(a)(15)(H)(ii)” in para-
21 graphs (8)(B) and (10)(B) of section 3 (29 U.S.C. 1802)
22 and inserting in lieu thereof “101(a)(15)(N)”;

23 (B) in section 103(a) (29 U.S.C. 1813(a))—

24 (i) by striking out “or” at the end of para-
25 graph (4),

1 (ii) by striking out the period at the end of
2 paragraph (5) and inserting in lieu thereof “; or”,
3 and

4 (iii) by adding at the end the following new
5 paragraph:

6 “(6) has been found to have violated paragraph
7 (1) or (2) of section 274A(a) of the Immigration and
8 Nationality Act.”;

9 (C) by striking out section 106 (29 U.S.C. 1816)
10 and the corresponding item in the table of contents;
11 and

12 (D) by striking out “section 106” in section
13 501(b) (29 U.S.C. 1851(b)) and by inserting in lieu
14 thereof “paragraph (1) or (2) of section 274A(a) of the
15 Immigration and Nationality Act”.

16 (2) The amendments made by paragraph (1) shall apply
17 to the employment, recruitment, referral, or utilization of the
18 services of an individual occurring on or after the first day of
19 the seventh month beginning after the date of the enactment
20 of this Act.

21 (e) CONFORMING AMENDMENT TO TABLE OF CON-
22 TENTS.—The table of contents is amended by inserting after
23 the item relating to section 274 the following new item:

“Sec. 274A. Unlawful employment of aliens.”.

24 (f) REPORTS ON IMPLEMENTATION OF SECTION.—For
25 monitoring and study respecting the enactment of this section

1 (including actions taken on any discrimination in employment
2 which might result from enactment of this section), see sec-
3 tion 402 of this Act.

4 **SEC. 122. TEMPORARY AGRICULTURAL WORKER PROGRAM.**

5 (a) **PROVIDING NEW "N" NONIMMIGRANT CLASSIFI-**
6 **CATION FOR TEMPORARY AGRICULTURAL WORKERS.—**

7 Section 101(a)(15) (8 U.S.C. 1101(a)) is amended—

8 (1) by inserting "other than agricultural services
9 described in section 216(h)(1)" in subparagraph (H)(ii)
10 after "temporary services or labor",

11 (2) by striking out "or" at the end of subpara-
12 graph (L),

13 (3) by striking out the period at the end of sub-
14 paragraph (M) and inserting in lieu thereof "; or", and

15 (4) by adding at the end the following new sub-
16 paragraph:

17 "(N) an alien, having a residence in a foreign
18 country which he has no intention of abandoning, who is
19 coming temporarily to the United States under section
20 216 to perform agricultural services (as defined in sec-
21 tion 216(h)(1)) of a temporary or seasonal nature."

22 (b) **INVOLVEMENT OF DEPARTMENTS OF LABOR AND**
23 **AGRICULTURE IN TEMPORARY AGRICULTURAL WORKER**
24 **PROGRAM.—**Section 214(c) (8 U.S.C. 1184(c)) is amended—

1 (1) by striking out "or (L)" in the first sentence
2 and inserting in lieu thereof ", (L), or (N)", and

3 (2) by adding at the end the following: "For pur-
4 poses of this subsection the term 'appropriate agencies
5 of Government' means the Department of Labor and
6 includes, with respect to nonimmigrants under section
7 101(a)(15)(N), the Department of Agriculture. The pro-
8 visions of section 216 shall apply to the question of im-
9 porting any alien as a nonimmigrant under section
10 101(a)(15)(N).".

11 (c) ADMISSION OF TEMPORARY AGRICULTURAL
12 WORKERS.—Chapter 2 of title II is amended by adding after
13 section 215 the following new section:

14 "ADMISSION OF TEMPORARY AGRICULTURAL WORKERS
15 "SEC. 216. (a) APPLICATION FOR LABOR CERTIFICA-
16 TION.—

17 "(1) REQUIREMENT.—A petition to import an
18 alien as a temporary agricultural worker (as defined in
19 subsection (h)(3)) may not be approved by the Attorney
20 General unless the petitioner has applied to the Secre-
21 tary of Labor for a certification that—

22 "(A) there are not sufficient workers who are
23 able, willing, and qualified and who will be avail-
24 able at the time and place needed to perform the
25 services involved in the petition, and

1 “(B) the employment of the alien in such
2 services will not adversely affect the wages and
3 working conditions of workers in the United
4 States similarly employed.

5 “(2) PAYMENT OF REQUIRED FEES.—The Secre-
6 tary of Labor may require by regulation, as a condition
7 of applying for the certification, the payment of a fee
8 to recover the reasonable costs of processing applica-
9 tions for certification.

10 “(b) CONDITIONS FOR DENIAL OF LABOR CERTIFICA-
11 TION.—The Secretary of Labor may not issue a certification
12 under subsection (a) with respect to an employer if the condi-
13 tions described in paragraph (1) are not met or if any of the
14 following conditions exist:

15 “(1) LABOR DISPUTE.—There is a strike or lock-
16 out in the course of a labor dispute which, under the
17 regulations, precludes such certification.

18 “(2) VIOLATION OF TERM OF PREVIOUS CERTI-
19 FICATION.—

20 “(A) IN GENERAL.—The employer at any
21 time during the previous two-year period em-
22 ployed temporary agricultural workers and the
23 Secretary of Labor has determined, after notice
24 and opportunity for a hearing, that the employer
25 at any time during that period—

1 “(i) substantially violated an essential
2 term or condition of the labor certification
3 with respect to the employment of domestic
4 or nonimmigrant workers, or

5 “(ii) has not paid any penalty for such
6 violations which have been assessed by the
7 Secretary of Labor.

8 “(B) DISQUALIFICATION LIMITED TO ONE
9 YEAR.—No employer may be denied certification
10 under subparagraph (A) for more than one year
11 for any violation described in that subparagraph.

12 “(3) NOT PROVIDING FOR WORKERS’ COMPENSA-
13 TION.—The employer has not provided the Secretary
14 with satisfactory assurances that if the employment for
15 which the certification is sought is not covered by
16 State workers’ compensation law, the employer will
17 provide, at no cost to the worker, insurance covering
18 injury and disease arising out of and in the course of
19 the worker’s employment which will provide benefits at
20 least equal to those provided under the State workers’
21 compensation law for comparable employment.

22 “(c) RULES CONCERNING APPLICATIONS FOR LABOR
23 CERTIFICATION.—The following rules shall apply in the
24 case of the filing and consideration of an application for a
25 labor certification for a temporary agricultural worker:

1 “(1) DEADLINE FOR FILING APPLICATIONS.—

2 The Secretary of Labor may not require that the appli-
3 cation be filed more than 65 days before the first date
4 the employer requires the services of the worker.

5 “(2) NOTICE WITHIN 14 DAYS OF DEFICIEN-
6 CIES.—

7 “(A) NOTICE OF DEFICIENCIES.—The appli-
8 cation shall be considered to have met the re-
9 quirements of subsection (a)(1) (other than sub-
10 paragraph (A) thereof) unless the Secretary of
11 Labor, within 14 days of the date of filing the ap-
12 plication, notifies the employer filing the applica-
13 tion that the application does not meet the re-
14 quirements.

15 “(B) SUBMITTAL OF MODIFIED APPLICA-
16 TION.—If the application does not meet the re-
17 quirements, the notice shall include the reasons
18 therefor and the Secretary shall permit the em-
19 ployer an opportunity for the prompt resubmission
20 of a modified application.

21 “(3) ISSUANCE OF CERTIFICATION.—

22 “(A) IF CONDITIONS MET.—The Secretary
23 of Labor shall make, not later than 20 days before
24 the date such services are first required to be per-

1 formed, the certification described in subsection
2 (a)(1) if—

3 “(i) the employer has complied with the
4 requirements for certification (including the
5 recruitment of eligible individuals as pre-
6 scribed by regulation), and

7 “(ii) the employer does not actually
8 have, or has not been provided with referrals
9 of, eligible individuals who have agreed to
10 perform such services on the terms and con-
11 ditions of a job offer which meet require-
12 ments of regulations.

13 “(B) CONTINUED ACCEPTANCE OF APPLI-
14 CANTS.—A labor certification under this section
15 remains effective only if the employer continues to
16 accept for employment, until the date the tempo-
17 rary agricultural workers depart for work with the
18 employer, eligible individuals who apply or are re-
19 ferred to the employer.

20 “(4) PROVIDING HOUSING ALLOWANCE.—In the
21 employer’s complying with terms and conditions of em-
22 ployment respecting the furnishing of housing, the em-
23 ployer shall be permitted, at the employer’s option and
24 instead of providing for suitable housing accommoda-
25 tions, to substitute payment of a reasonable housing al-

1 lowance, but only if suitable housing is otherwise avail-
2 able in the proximate area of employment.

3 “(d) ROLES OF AGRICULTURAL ASSOCIATIONS.—

4 “(1) PERMITTING FILING BY AGRICULTURAL AS-
5 SOCIATIONS.—A petition to import an alien as a tem-
6 porary agricultural worker, and an application for a
7 labor certification with respect to such a worker, may
8 be filed by an association representing agricultural pro-
9 ducers which use agricultural services.

10 “(2) TREATMENT OF ASSOCIATIONS ACTING AS
11 EMPLOYERS.—If such an association is a joint or sole
12 employer of temporary agricultural workers, the certifi-
13 cations granted under this section to the association
14 may be used for the certified job opportunities of any of
15 its producer members and such workers may be trans-
16 ferred among its member producers to perform agricul-
17 tural services of a temporary or seasonal nature for
18 which the certifications were granted.

19 “(3) TREATMENT OF VIOLATIONS.—

20 “(A) MEMBER’S VIOLATION DOES NOT NEC-
21 ESSARILY DISQUALIFY ASSOCIATION OR OTHER
22 MEMBERS.—If an individual producer member of
23 such an association is determined to have commit-
24 ted an act that under subsection (b)(2) results in
25 the denial of certifications with respect to the

1 member, the denial shall apply only to that
2 member and does not apply to the association or
3 another producer member of the association unless
4 the Secretary determines that the association or
5 other member participated in, or had knowledge
6 of and derived benefit from, the violation.

7 “(B) ASSOCIATION’S VIOLATION DOES NOT
8 NECESSARILY DISQUALIFY MEMBERS.—If an as-
9 sociation representing agricultural producers as an
10 agent, joint employer, or employer is determined
11 to have committed an act that under subsection
12 (b)(2) results in the denial of certification with re-
13 spect to the association, the denial shall apply
14 only to the association and does not apply to any
15 individual producer member of the association
16 unless the Secretary determines that the member
17 participated in, or had knowledge of and derived
18 benefit from, the violation.

19 “(e) EXPEDITED ADMINISTRATIVE APPEALS OF CER-
20 TAIN DETERMINATIONS.—

21 “(1) DENIAL OF LABOR CERTIFICATION.—The
22 Secretary of Labor shall provide for an expedited pro-
23 cedure for the review of a denial of certification under
24 subsection (a)(1) or, at the applicant’s request, for a de
25 novo administrative hearing respecting the denial. In

1 the case of a request for such a review or hearing with
2 respect to denial of certification for temporary agricul-
3 tural workers to perform agricultural services in the
4 production of perishable commodities (as defined by the
5 Secretary of Agriculture for purposes of this section),
6 the Secretary of Labor shall provide that the review or
7 hearing take place not later than 72 hours after the
8 time the request is submitted.

9 “(2) REDETERMINATION WHERE UNQUALIFIED
10 WORKERS REFERRED FOR EMPLOYMENT.—The Secre-
11 tary of Labor shall expeditiously, but in no case later
12 than 72 hours after the time a new determination is
13 requested, make a new determination on the request
14 for certification in the case of a temporary agricultural
15 worker if the employer asserts that eligible individuals
16 who have been referred are not able, willing, or quali-
17 fied because of lawful employment-related reasons. If
18 the employer asserts that an eligible individual who
19 has been referred is not able, willing, or qualified, the
20 burden of proof is on the employer to establish that the
21 individual referred is not able, willing, or qualified be-
22 cause of employment-related reasons.

23 “(3) ATTORNEY GENERAL EXPEDITED REVIEW
24 WHERE WORKERS NOT ACTUALLY AVAILABLE.—To
25 the extent that—

1 “(A) a certification under subsection (a)(1)
2 was denied solely because of the availability of el-
3 igible individuals to perform the agricultural serv-
4 ices specified in the petition, and

5 “(B) eligible individuals who agree to per-
6 form the services for which the temporary agricul-
7 tural workers are sought are not actually avail-
8 able at the time and place such services are re-
9 quired,

10 the Attorney General shall provide by regulation for an
11 expedited review of the petition respecting the workers
12 not later than 72 hours after the time the employer re-
13 quests expedited review under this paragraph. To the
14 extent that the Attorney General determines that the
15 facts described in the previous sentence exist, the At-
16 torney General may provide for approval of the peti-
17 tion (subject to the other conditions required for the ap-
18 proval of certification under subsection (a)(1)), notwith-
19 standing the denial of the certification by the Secretary
20 of Labor.

21 “(4) EXPEDITED APPLICATION WHERE UNFOR-
22 SEEN NEED FOR WORKERS.—

23 “(A) PERMITTING AMENDED APPLICATION
24 OR ABBREVIATED RECRUITMENT PERIOD.—If

1 the Secretary of Labor makes the determination
2 described in subparagraph (C), the Secretary—

3 “(i) shall permit the employer to amend
4 or to make an application for certification
5 under subsection (a)(1), and

6 “(ii) may waive some or all of the 65-
7 day recruitment period described in subsec-
8 tion (c)(1) as necessary to meet the critical
9 need described in subparagraph (C)(i).

10 “(B) PROMPT REDETERMINATION.—In the
11 case of an amended or new application under sub-
12 paragraph (A)—

13 “(i) USING BEST DATA.—The Secretary
14 shall make the determination on the amend-
15 ment or application based upon the best
16 available labor market information.

17 “(ii) DEADLINE FOR DETERMINA-
18 TION.—Except as provided in clause (iii), the
19 Secretary shall make the determination on
20 the amendment or application not later than
21 20 days before the date on which the work-
22 ers are needed.

23 “(iii) DEADLINE FOR LATE AMEND-
24 MENTS AND APPLICATIONS—If an amend-
25 ment or application is made at any time later

1 than 3 days before such date of need de-
2 scribed in clause (ii), the Secretary shall
3 make the determination on the amendment
4 or application within 72 hours after the date
5 the amendment or application is submitted.

6 “(C) DETERMINATION OF UNFORSEEN CIR-
7 CUMSTANCES.—The determination under sub-
8 paragraph (A) is that—

9 “(i) in the case of an employer that has
10 filed an application for a certification under
11 subsection (a)(1), the employer—

12 “(I) has a critical need for workers
13 before the expiration of the 65-day
14 period described in subsection (c)(1), or

15 “(II) has a critical need for addi-
16 tional workers who had not been re-
17 quested in the previous application;

18 “(ii) in the case of an employer that had
19 not previously filed such an application, the
20 employer has a critical need for workers
21 before the expiration of the 65-day period
22 described in subsection (c)(1) and the employ-
23 er made prompt application for certification
24 under subsection (a)(1) when the employer’s
25 need for workers became known; and

1 “(iii) based on the employer’s past expe-
2 rience and on reasonable expectations, the
3 need for such workers at the time required
4 could not have been foreseen.

5 “(5) PERMITTING PRESENTATION OF COUNTER-
6 VAILING EVIDENCE.—If the Secretary of Labor denies
7 a certification under subsection (a)(1) or fails to act on
8 the application, the Attorney General may permit the
9 applicant to present countervailing evidence to the At-
10 torney General that—

11 “(A) there are not sufficient workers who are
12 able, willing, and qualified and who will be avail-
13 able at the time and place needed to perform the
14 services involved in the petition for which the cer-
15 tification is sought, and

16 “(B) the employment policies of the Depart-
17 ment of Labor have been observed.

18 “(f) ENTRY AND TRANSFER OF TEMPORARY AGRICUL-
19 TURAL WORKERS.—

20 “(1) TIME LIMITATION.—An alien may not be
21 admitted to the United States as a temporary agricul-
22 tural worker for an aggregate period longer than the
23 period (or periods) determined by regulations of the At-
24 torney General. The regulations may provide for a
25 period of admission of longer than one year in the case

1 of agricultural services which the Secretary of Labor
2 has recognized, for purposes of the admission of certain
3 nonimmigrants under section 101(a)(15)(H)(ii), before
4 the date of the enactment of this section.

5 “(2) VIOLATORS DISQUALIFIED FOR 5 YEARS.—

6 An alien may not be admitted to the United States as
7 a temporary agricultural worker if the alien was admit-
8 ted to the United States as such a worker within the
9 previous five-year period and the alien during that
10 period violated a term or condition of such previous ad-
11 mission.

12 “(3) TRANSFER OF WORKERS AMONG EMPLOY-
13 ERS PERMITTED.—Nothing in this section shall prohib-
14 it an employer which has a petition approved with re-
15 spect to the importation of temporary agricultural
16 workers from hiring such a worker who has completed
17 a work contract entered into with another employer.
18 The Attorney General shall provide for a procedure to
19 allow temporary agricultural workers, who have com-
20 pleted a work contract under this section and who are
21 not otherwise deportable, to remain in the United
22 States for brief periods in which to seek and accept
23 employment with employers who are authorized to
24 employ the workers.

25 “(g) MISCELLANEOUS PROVISIONS.—

1 “(1) AUTHORITY OF SECRETARY OF LABOR.—

2 The Secretary of Labor is authorized to take such ac-
3 tions, including imposing appropriate penalties and
4 seeking appropriate injunctive relief and specific per-
5 formance of contractual obligations, as may be neces-
6 sary to assure employer compliance with terms and
7 conditions of employment under this section.

8 “(2) APPROPRIATE DOCUMENTATION.—The At-
9 torney General shall provide for such endorsement of
10 entry and exit documents of temporary agricultural
11 workers as may be necessary to carry out this section
12 and to provide notice for purposes of section 274A.

13 “(3) PREEMPTION.—The provisions of subsections
14 (a) and (c) of section 214 and the provisions of this sec-
15 tion preempt any State or local law regulating admissi-
16 bility of nonimmigrant workers.

17 “(h) DEFINITIONS.—For purposes of this section:

18 “(1) AGRICULTURAL SERVICES.—The term ‘agri-
19 cultural services’ has the meaning given such term by
20 the Secretary of Labor in regulations and includes—

21 “(A) agricultural labor, defined in section
22 3121(g) of the Internal Revenue Code of 1954,
23 and

24 “(B) agriculture, as defined in section 3(f) of
25 the Fair Labor Standards Act of 1938.

1 “(2) ELIGIBLE INDIVIDUAL.—The term ‘eligible
2 individual’ means, with respect to employment, an indi-
3 vidual who is not an unauthorized alien (as defined in
4 section 274A(h)(2)) with respect to that employment.

5 “(3) TEMPORARY AGRICULTURAL WORKER.—
6 The term ‘temporary agricultural worker’ means a
7 nonimmigrant described in section 101(a)(15)(N).”.

8 (d) AUTHORIZATION OF APPROPRIATIONS.—Section
9 404 (8 U.S.C. 1101 note), as amended by sections 101(b) and
10 102(b) of this Act, is further amended by adding at the end
11 the following new subsections:

12 “(d) AUTHORIZATIONS OF APPROPRIATIONS FOR SEC-
13 RETARY OF LABOR.—(1) There are authorized to be appro-
14 priated to the Secretary of Labor for each fiscal year, begin-
15 ning with fiscal year 1986, \$10,000,000 for the purposes—

16 “(A) of recruiting domestic workers for temporary
17 services which might otherwise be performed by tem-
18 porary agricultural workers described in section 216,
19 and

20 “(B) of monitoring terms and conditions under
21 which such temporary agricultural workers (and do-
22 mestic workers employed by the same employers) are
23 employed in the United States.

24 “(2) There are authorized to be appropriated for each
25 fiscal year, beginning with fiscal year 1986, such sums as

1 may be necessary for the purpose of enabling the Secretary of
2 Labor to make determinations and certifications under section
3 216 and under section 212(a)(14).

4 “(e) AUTHORIZATION OF APPROPRIATIONS FOR SEC-
5 RETARY OF AGRICULTURE.—There are authorized to be ap-
6 propriated for each fiscal year, beginning with fiscal year
7 1986, such sums as may be necessary for the purposes of
8 enabling the Secretary of Agriculture to carry out the Secre-
9 tary’s duties and responsibilities under section 216.”.

10 (e) PROHIBITING ADJUSTMENT OF STATUS OF TEM-
11 PORARY AGRICULTURAL WORKERS.—(1) Section 245(c) (8
12 U.S.C. 1255(c)), as amended by section 113(a) of this Act, is
13 further amended by adding at the end the following new
14 paragraph:

15 “(4) An alien (other than an immediate relative specified
16 in section 201(b)) who entered the United States classified as
17 a nonimmigrant under section 101(a)(15)(N).”.

18 (2) Section 248(1) (8 U.S.C. 1258(1)) is amended by
19 striking out “or (K)” and inserting in lieu thereof “(K), or
20 (N)”.

21 (f) EFFECTIVE DATE.—The amendments made by sub-
22 sections (a), (b), and (c) of this section apply to petitions and
23 applications filed under sections 214(c) and 216 of the Immi-
24 gration and Nationality Act on or after the first day of the
25 seventh month beginning after the date of the enactment of

1 this Act (hereinafter in this section referred to as the “effec-
2 tive date”).

3 (g) REGULATIONS.—The Attorney General, in consul-
4 tation with the Secretary of Labor and the Secretary of Agri-
5 culture, shall approve all regulations to be issued implement-
6 ing sections 101(a)(15)(N) and 216 of the Immigration and
7 Nationality Act. Notwithstanding any other provision of law,
8 final regulations to implement such sections shall first be
9 issued, on an interim or other basis, not later than the effec-
10 tive date.

11 (h) CONFORMING AMENDMENT TO TABLE OF CON-
12 TENTS.—The table of contents is amended by inserting after
13 the item relating to section 215 the following new item:

“Sec. 216. Admission of temporary agricultural workers.”.

14 **SEC. 123. AGRICULTURAL LABOR TRANSITION PROGRAM.**

15 (a) ESTABLISHMENT OF TRANSITION PROGRAM.—The
16 Attorney General, in consultation with the Secretary of
17 Labor and the Secretary of Agriculture, shall promulgate
18 rules and regulations for the implementation of an agricultur-
19 al labor transition program. The program shall be effective
20 for a three-year period beginning on the first day of the sev-
21 enth month beginning after the date of enactment of this Act.

22 (b) LIMITATION ON NUMBER OF WORKERS UNDER
23 PROGRAM.—During the first year of the transition program,
24 an agricultural employer, except as provided in (c), (d), and
25 (e), may, as provided by regulation, employ up to 100 percent

1 of his nondomestic seasonal agricultural worker need with
2 transitional workers. During the second and third years of
3 the program, the employer may employ up to 67 percent and
4 33 percent, respectively, of his nondomestic seasonal agricul-
5 tural worker needs with transitional workers.

6 (c) CANNOT REPLACE LEGAL WORKERS.—Nothing in
7 this section shall permit transitional workers to replace avail-
8 able United States workers or legal foreign workers admitted
9 under the Immigration and Nationality Act.

10 (d) COVERAGE UNDER OTHER EMPLOYMENT LAWS.—
11 All workers employed under the provisions of this section
12 shall be fully protected by all Federal and State laws and
13 regulations governing the employment of United States mi-
14 grant and seasonal agricultural workers.

15 (e) ELIGIBILITY OF ALIENS.—(1) An undocumented
16 alien in the United States shall be eligible to be a transitional
17 worker under the provisions of this section if the person is
18 employed or has been employed as a seasonal agricultural
19 worker in the United States for at least 90 days during a
20 period of time after January 1, 1980.

21 (2) An undocumented worker shall not be eligible to be
22 a transitional worker and may not be registered under this
23 section if the person is deportable for any reason other than
24 those described in paragraphs (2) and (9) of section 241(a) of
25 the Immigration and Nationality Act, or on the basis, under

1 paragraph (1) of that section, of being excludable at the time
2 of entry under paragraph (19), (20), or (26) of section 212(a)
3 of such Act. Only persons employed as transitional workers
4 and registered as such by the Attorney General during the
5 first year of the program shall be eligible during the second
6 and third years.

7 (3) A transitional worker under this section is not eligi-
8 ble to apply for adjustment of status under section 245(a) of
9 the Immigration and Nationality Act, unless the alien is an
10 immediate relative described in section 201(b) of such Act.

11 (f) REQUIREMENTS FOR EMPLOYERS TO PARTICI-
12 PATE.—To employ transitional workers under the provisions
13 of this section, an agricultural employer must—

14 (1) notify the Attorney General of the employer's
15 intention to participate in the transition program within
16 twelve months of the beginning of the program, and

17 (2) provide such information relating to the em-
18 ployer's requirements for seasonal agricultural workers
19 in months or other periods in previous and future years
20 as the Attorney General may specify.

21 (g) REPORTS ON USE OF WORKERS.—After an em-
22 ployer begins participation in the agricultural labor transition
23 program the employer shall provide, upon request, to the At-
24 torney General a numerical count of the number of transition-
25 al workers employed and the total number of domestic and

1 foreign seasonal agricultural workers employed by the
2 employer.

3 (h) APPLICATION OF STANDARDS FOR TEMPORARY
4 AGRICULTURAL WORKERS IN CERTAIN CASES.—Any eli-
5 gible employer under the transition program who employs
6 nonimmigrant alien agricultural workers under the provisions
7 of section 216 of the Immigration and Nationality Act shall
8 provide wages and working conditions as required by subsec-
9 tion (a)(1)(B) of such section to all similarly employed work-
10 ers of that employer.

11 (i) EMPLOYMENT DOES NOT PRECLUDE LEGALIZA-
12 TION OF A WORKER.—Agreement by an alien to be a transi-
13 tional worker would not preclude that alien from eligibility
14 under the legalization provisions of title II of this Act.

15 (j) PAYMENT OF FEES.—The Attorney General may
16 require by regulation, as a condition of participation by an
17 employer in the transition program, the payment of a fee to
18 recover the reasonable costs of processing registrations under
19 the transition program.

20 (k) TREATMENT OF CERTAIN DOCUMENTATION.—In
21 accordance with regulations of the Attorney General, a work
22 permit or other documentation issued under this section to a
23 transitional worker shall be considered to be documentation
24 evidencing authorization of employment for purposes of sec-
25 tion 274A(b)(1)(C)(iii) of the Immigration and Nationality Act

1 and an alien employed by an employer and in possession of a
2 properly endorsed work permit or other such documentation
3 for a period of time shall be considered (for purposes of sec-
4 tion 274A(h)(2) of such Act) to be authorized by the Attorney
5 General to be so employed during that period of time. For
6 purposes of section 3121(a)(1) of the Internal Revenue Code
7 of 1954 and section 210(a) of the Social Security Act, a tran-
8 sitional worker performing seasonal agricultural services for
9 an employer participating under the program shall be consid-
10 ered to be lawfully admitted to the United States on a tempo-
11 rary basis to perform agricultural labor.

12 (l) MISCELLANEOUS ADMINISTRATIVE PROVISIONS.—

13 (1) Notwithstanding the Federal Property and Administrative
14 Services Act of 1949 (40 U.S.C. 471 et seq.), the Attorney
15 General is authorized to expend from the appropriation pro-
16 vided for the administration and enforcement of the Immigra-
17 tion and Nationality Act, such amounts as may be necessary
18 for the leasing or acquisition of property in the fulfillment of
19 this section during the period of the transition program.

20 (2) USE OF RETIRED FEDERAL EMPLOYEES.—Not-
21 withstanding any other provision of law, the retired or retain-
22 er pay of a member or former member of the Armed Forces
23 of the United States or the annuity of a retired employee of
24 the Federal Government shall not be reduced while such in-
25 dividual is temporarily employed by the Service for the

1 period of the transition program to perform duties in connec-
2 tion with the program.

3 **SEC. 124. COMMISSION ON AGRICULTURAL WORKER PRO-**
4 **GRAMS.**

5 (a) ESTABLISHMENT AND COMPOSITION OF COMMIS-
6 SION.—(1) There is established a commission (hereinafter in
7 this section referred to as the “Commission”) to be composed
8 of 12 members—

9 (A) two to be appointed by the Attorney General,

10 (B) two to be appointed by the Secretary of
11 Labor,

12 (C) two to be appointed by the Secretary of Agri-
13 culture,

14 (D) three to be appointed by the Speaker of the
15 House of Representatives, and

16 (E) three members to be appointed by the Presi-
17 dent pro tempore of the Senate.

18 (2) In appointing individuals as members, the Attorney
19 General, the Secretaries of Labor and Agriculture, the
20 Speaker, and the President pro tempore shall assure that
21 members include some individuals who are representative of
22 labor organizations for agricultural workers and some individ-
23 uals who are representative of agricultural employers of non-
24 domestic workers. Appointments to the Commission shall be
25 made in a manner that provides for balanced representation

1 of the various interests in the matters considered by the
2 Commission.

3 (3) A vacancy in the Commission shall be filled in the
4 same manner in which the original appointment was made.

5 (4) Appointments to the Commission shall first be made
6 within 30 days after the date of the enactment of this Act.

7 (5) Members shall be appointed to serve for the life of
8 the Commission.

9 (b) REVIEW OF AGRICULTURAL LABOR PROGRAMS.—

10 (1) The Commission shall study and review—

11 (A) the temporary agricultural worker program
12 described in section 216 of the Immigration and Na-
13 tionality Act, and

14 (B) the agricultural labor transition program under
15 section 123 of this Act,

16 particularly as such programs impact on the labor needs of
17 agricultural employers in the United States and on the wages
18 and working conditions of United States agricultural workers.

19 (2) The Commission shall specifically review the follow-
20 ing with respect to the temporary agricultural worker pro-
21 gram under section 216 of the Immigration and Nationality
22 Act:

23 (A) The standards described in subsection (a)(1) of
24 that section for the certification respecting temporary
25 agricultural workers.

1 (B) Whether or not there should be a statutory or
2 other specific limit on the number of such workers who
3 may be imported in any period.

4 (C) Whether or not payments equivalent to the
5 taxes otherwise imposed under the Federal Insurance
6 Contributions Act and the Federal Unemployment Tax
7 Act should be made by the employers of such workers
8 and what use should be made of these payments.

9 (D) What is a proper length of time and proper
10 mechanism for the recruitment of domestic workers
11 before importation of such foreign workers.

12 (E) Whether foreign agricultural workers should
13 be contractually restricted to employment with specific
14 employers.

15 (F) Whether current labor standards offer ade-
16 quate protection for domestic and foreign agricultural
17 workers.

18 (G) Whether certain geographic regions need spe-
19 cial programs or provisions to meet their unique needs.

20 (c) REPORT TO CONGRESS.—(1) The Commission shall
21 report to the Congress not later than two years after the
22 effective date (described in section 122(f)) on its reviews
23 under subsection (b). The Commission shall include in its
24 report recommendations for improvements in the temporary
25 agricultural worker program under section 216 of the Immi-

1 gration and Nationality Act, including specific legislative
2 recommendations—

3 (1) on the matter specifically reviewed under sub-
4 section (b)(2),

5 (2) improving the timeliness of decisions regarding
6 the admission of temporary agricultural workers under
7 the program,

8 (3) removing any current economic disincentives
9 to hiring United States citizens or permanent resident
10 aliens where temporary agricultural workers have been
11 requested, and

12 (4) improving the cooperation among government
13 agencies, employers, employer associations, workers,
14 unions, and other worker associations to end the de-
15 pendence of any industry on a constant supply of tem-
16 porary foreign agricultural workers.

17 (d) COMPENSATION OF MEMBERS.—(1) Each member
18 of the Commission who is not an officer or employee of the
19 Federal Government is entitled to receive, subject to such
20 amounts as are provided in advance in appropriations Acts,
21 the daily equivalent of the minimum annual rate of basic pay
22 in effect for grade GS-18 of the General Schedule for each
23 day (including traveltime) during which the member is en-
24 gaged in the actual performance of duties of the Commission.

1 Each member of the Commission who is such an officer or
2 employee shall serve without additional pay.

3 (2) While away from their homes or regular places of
4 business in the performance of services for the Commission,
5 members of the Commission shall be allowed travel expenses,
6 including per diem in lieu of subsistence.

7 (f) MEETINGS OF COMMISSION.—(1) Seven members of
8 the Commission shall constitute a quorum, but a lesser
9 number may hold hearings.

10 (2) The Chairman and the Vice Chairman of the Com-
11 mission shall be elected by the members of the Commission
12 for the life of the Commission.

13 (3) The Commission shall meet at the call of the Chair-
14 man or a majority of its members.

15 (g) STAFF.—(1) The Chairman, in consultation with the
16 Vice Chairman, may appoint and fix the compensation of a
17 staff director and such other additional personnel as may be
18 necessary to enable the Commission to carry out its func-
19 tions, without regard to the laws, rules, and regulations gov-
20 erning appointment in the competitive service. Any Federal
21 employee subject to those laws, rules, and regulations may be
22 detailed to the Commission without reimbursement, and such
23 detail shall be without interruption or loss of civil service
24 status or privilege.

1 (2) The Commission may procure temporary and inter-
2 mittent services under section 3109(b) of title 5, United
3 States Code, but at rates for individuals not to exceed the
4 daily equivalent of the minimum annual rate of basic pay pay-
5 able for GS-18 of the General Schedule.

6 (g) AUTHORITY OF COMMISSION.—(1) The Commission
7 may for the purpose of carrying out this section, hold such
8 hearings, sit and act at such times and places, take such tes-
9 timony, and receive such evidence as the Commission consid-
10 ers appropriate.

11 (2) The Commission may secure directly from any de-
12 partment or agency of the United States information neces-
13 sary to enable it to carry out this section. Upon request of the
14 Chairman, the head of such department or agency shall fur-
15 nish such information to the Commission.

16 (3) The Commission may accept, use, and dispose of
17 gifts or donations of services or property.

18 (4) The Commission may use the United States mails in
19 the same manner and under the same conditions as other
20 departments and agencies of the United States.

21 (5) The Administrator of General Services shall provide
22 to the Commission on a reimbursable basis such administra-
23 tive support services as the Commission may request.

1 (h) AUTHORIZATION OF APPROPRIATIONS.—(1) There
2 are authorized to be appropriated such sums as may be nec-
3 essary to carry out the purposes of this section.

4 (2) Notwithstanding any other provision of this section,
5 no payment, or authorization to make payments or to enter
6 into contracts under this section, shall be effective to such
7 extent, or in such amounts, as are provided in advance in
8 appropriations Acts.

9 (i) TERMINATION DATE.—The Commission shall cease
10 to exist 27 months after the effective date (described in sec-
11 tion 122(f)).

12 TITLE II—LEGALIZATION OF STATUS

13 SEC. 201. LEGALIZATION COMMISSION.

14 (a) ESTABLISHMENT AND COMPOSITION OF COMMIS-
15 SION.—(1) There is established a Select Commission on Le-
16 galization (hereinafter in this section referred to as the
17 “Commission”), to be composed of 16 members—

18 (A) eight to be appointed by the President (not
19 more than four of whom may be members of the same
20 political party) from a list of names submitted by the
21 Speaker of the House of Representatives and

22 (B) eight to be appointed by the President (not
23 more than four of whom may be members of the same
24 political party) from a list of names submitted by the
25 President pro tempore of the Senate.

1 (2) Each list submitted under paragraph (1) shall contain
2 the names of at least 24 individuals, not more than 12 of
3 whom are members of the same political party, and none of
4 whom are officials or employees in the legislative branch of
5 the Federal Government.

6 (3) A vacancy in the Commission shall be filled in the
7 same manner in which the original appointment was made.

8 (4) The Speaker of the House of Representatives and
9 the President pro tempore of the Senate shall submit the lists
10 described in paragraph (2) to the President not later than 30
11 days after the date of the enactment of this Act and the
12 President shall first appoint individuals as members of the
13 Commission within 30 days after the date of receipt of such
14 lists.

15 (5) Members shall be appointed to serve for the life of
16 the Commission.

17 (b) DUTIES OF COMMISSION.—The Commission shall
18 monitor and review—

19 (1) the border patrol and other enforcement pro-
20 grams of the Federal Government designed to control
21 substantially the illegal entry of aliens into the United
22 States and to prevent and deter substantially violations
23 of the terms of entry, including the amount of re-
24 sources devoted to these programs and their effective-
25 ness, and

(2) the programs of the Federal Government designed to eliminate substantially the employment of unauthorized aliens in the United States, including the amount of resources devoted to these programs and their effectiveness.

The Commission may also study improvements that can be made to improve the effectiveness of these programs.

(c) REPORTS TO CONGRESS.—(1) The Commission shall transmit a report to Congress on its activities not later than one year after the date a majority of its members are first appointed, and (until its expiration) not less frequently than annually thereafter.

(2) Each report shall include a description of the increase in resources being devoted to the programs described in subsection (b) and the effect of the increase and such recommendations for improvements in the programs as the Commission determines to be appropriate.

(3) Each report also shall contain a finding of whether the following conditions have been met:

(A) Programs of the Federal Government are in effect, and have adequate resources, to control substantially illegal entry of aliens into the United States, to prevent and deter substantially violations of the terms of entry, and to eliminate substantially the employment of unauthorized aliens in the United States.

1 (B) There is substantial likelihood that these pro-
2 grams will continue to remain effective after the imple-
3 mentation of the program of legalization under section
4 202 of this Act.

5 (d) COMPENSATION OF MEMBERS, MEETINGS, STAFF,
6 AUTHORITY OF COMMISSION, AND AUTHORIZATION OF
7 APPROPRIATIONS.—(1) The provisions of subsection (d), (e),
8 (f)(2), (f)(3), (g), and (h) of section 124 of this Act shall apply
9 to the Commission under this section in the same manner as
10 they apply to the Commission established under section 124.

11 (2) Nine members of the Commission shall constitute a
12 quorum, but a lesser number may hold hearings.

13 (e) TERMINATION DATE.—The Commission shall cease
14 to exist upon the effective date of the legalization program
15 (described in section 202(a)(1)(C)), except that the Commis-
16 sion may continue to function for up to 90 days thereafter for
17 the purpose of concluding its activities.

18 **SEC. 202. LEGALIZATION OF STATUS.**

19 (a) TEMPORARY RESIDENCE STATUS.—The Attorney
20 General may, in his discretion and under such regulations as
21 he shall prescribe, adjust the status of an alien to that of an
22 alien lawfully admitted for temporary residence if the alien
23 meets the following requirements:

24 (1) TIMELY APPLICATION.—

1 (A) DURING APPLICATION PERIOD.—Except
2 as provided in subparagraph (B), the alien must
3 apply for such adjustment during the 12-month
4 period beginning on a date (not later than 90 days
5 after the effective date of the legalization pro-
6 gram, described in subparagraph (C)) designated
7 by the Attorney General.

8 (B) APPLICATION WITHIN 30 DAYS OF
9 SHOW-CAUSE ORDER.—An alien who, at any
10 time during the 12-month period described in sub-
11 paragraph (A), is the subject of an order to show
12 cause issued under section 242 of the Immigration
13 and Nationality Act, must make application under
14 this section not later than the end of the 30-day
15 period beginning either on the first day of such
16 12-month period or on the date of the issuance of
17 such order, whichever day is later.

18 (C) EFFECTIVE DATE OF LEGALIZATION
19 PROGRAM.—As used in this section, the term “ef-
20 fective date of the legalization program” means
21 the date the Legalization Commission reports,
22 under section 201(c)(3), that conditions described
23 in such section have been met.

24 (D) INFORMATION INCLUDED IN APPLICA-
25 TION.—Each application under this subsection

1 shall contain such information as the Attorney
2 General may require, including information on
3 living relatives of the applicant with respect to
4 whom a petition for preference or other status
5 may be filed by the applicant at any later date
6 under section 204(a) of the Immigration and Na-
7 tionality Act.

8 (2) CONTINUOUS UNLAWFUL RESIDENCE SINCE
9 1980.—

10 (A) IN GENERAL.—The alien must establish
11 that he either (i) arrived in the United States
12 before January 1, 1980, and that he has resided
13 continuously in the United States in an unlawful
14 status since such date, or (ii) is a special Cuban or
15 Haitian entrant (as described in subparagraph
16 (D)).

17 (B) NONIMMIGRANTS.—In the case of an
18 alien who entered the United States as a nonim-
19 migrant before January 1, 1980, the alien must
20 establish that the alien's period of authorized stay
21 as a nonimmigrant expired before such date
22 through the passage of time or the alien's unlaw-
23 ful status was known to the Government as of
24 such date.

1 (C) EXCHANGE VISITORS.—If the alien was
2 at any time a nonimmigrant exchange alien (as
3 defined in section 101(a)(15)(J) of the Immigration
4 and Nationality Act), the alien must establish that
5 the alien was not subject to the two-year foreign
6 residence requirement of section 212(e) or has ful-
7 filled that requirement or received a waiver there-
8 of.

9 (D) SPECIAL CUBAN OR HAITIAN EN-
10 TRANT.—As used in this section, the term “spe-
11 cial Cuban or Haitian entrant” means an alien
12 who is—

13 (i) a national of Cuba who arrived in
14 the United States and presented himself for
15 inspection after April 20, 1980, and before
16 January 1, 1981, and who is still physically
17 present in the United States;

18 (ii) a national of Haiti who on Decem-
19 ber 31, 1980, was the subject of exclusion or
20 deportation proceedings under section 236 or
21 section 242 of the Immigration and National-
22 ity Act, including a national of Haiti who on
23 that date was under an order of exclusion
24 and deportation or under an order of depor-
25 tation which had not yet been executed;

1 (iii) a national of Haiti who was paroled
2 into the United States under section
3 212(d)(5) of such Act or was granted volun-
4 tary departure before December 31, 1980,
5 and was physically present in the United
6 States on that date; or

7 (iv) a national of Cuba or Haiti who on
8 December 31, 1980, had an application for
9 asylum pending with the Immigration and
10 Naturalization Service.

11 (3) CONTINUOUS PHYSICAL PRESENCE SINCE EN-
12 ACTMENT.—The alien must establish that the alien has
13 been continuously physically present in the United
14 States since the date of the enactment of this section.

15 (4) ADMISSIBLE AS IMMIGRANT.—The alien must
16 establish that he—

17 (A) is admissible to the United States as an
18 immigrant, except as otherwise provided under
19 subsection (d)(2),

20 (B) has not been convicted of any felony or
21 of three or more misdemeanors committed in the
22 United States,

23 (C) has not assisted in the persecution of any
24 person or persons on account of race, religion, na-

1 tionality, membership in a particular social group,
2 or political opinion, and

3 (D) is registered or registering under the
4 Military Selective Service Act, if the alien is re-
5 quired to be so registered under that Act.

6 (b) SUBSEQUENT ADJUSTMENT TO PERMANENT RESI-
7 DENCE AND NATURE OF TEMPORARY RESIDENT
8 STATUS.—

9 (1) ADJUSTMENT TO PERMANENT RESIDENCE.—

10 The Attorney General, in his discretion and under such
11 regulations as he may prescribe, may adjust the status
12 of any alien provided lawful temporary resident status
13 under subsection (a) to that of an alien lawfully
14 admitted for permanent residence if the alien meets the
15 following requirements:

16 (A) TIMELY APPLICATION.—The alien must
17 apply for such adjustment during the 12-month
18 period beginning with the first day of the thirty-
19 first month that begins after the date the alien
20 was granted such temporary resident status.

21 (B) CONTINUOUS LAWFUL RESIDENCE.—

22 (i) IN GENERAL.—The alien must es-
23 tablish that he has continuously resided in
24 the United States since the date the alien
25 was granted such temporary resident status.

1 (ii) TREATMENT OF CERTAIN AB-
2 SENCES.—An alien shall not be considered
3 to have lost the continuous residence referred
4 to in clause (i) by reason of an absence from
5 the United States permitted under paragraph
6 (3)(A).

7 (C) ADMISSIBLE AS IMMIGRANT.—The alien
8 must establish that he—

9 (i) is admissible to the United States as
10 an immigrant, except as otherwise provided
11 under subsection (d)(2), and

12 (ii) has not been convicted of any felony
13 or three or more misdemeanors committed in
14 the United States.

15 (D) BASIC CITIZENSHIP SKILLS.—

16 (i) IN GENERAL.—The alien must dem-
17 onstrate that he either—

18 (I) meets the requirements of sec-
19 tion 312 of the Immigration and Na-
20 tionality Act (relating to minimal under-
21 standing of ordinary English and a
22 knowledge and understanding of the his-
23 tory and government of the United
24 States), or

1 (II) is satisfactorily pursuing a
2 course of study (recognized by the At-
3 torney General) to achieve such an un-
4 derstanding of English and such a
5 knowledge and understanding of the his-
6 tory and government of the United
7 States.

8 (ii) EXCEPTION FOR ELDERLY INDIVID-
9 UALS.—The Attorney General may, in his
10 discretion, waive all or part of the require-
11 ments of clause (i) in the case of an alien
12 who is 65 years of age or older.

13 (2) TERMINATION OF TEMPORARY RESIDENCE.—

14 The Attorney General shall provide for termination of
15 temporary resident status granted an alien under this
16 subsection—

17 (A) if it appears to the Attorney General
18 that the alien was in fact not eligible for such
19 status;

20 (B) if the alien commits an act that—

21 (i) makes the alien inadmissible to the
22 United States as an immigrant, except as
23 otherwise provided under subsection (d)(2), or

1 (ii) is convicted of any felony or three or
2 more misdemeanors committed in the United
3 States; or

4 (C) at the end of the forty-second month be-
5 ginning after the date the alien is granted such
6 status, unless the alien has filed an application for
7 adjustment of such status pursuant to paragraph
8 (1) and such application has not been denied.

9 (3) AUTHORIZED TRAVEL AND EMPLOYMENT
10 DURING TEMPORARY RESIDENCE.—During the period
11 an alien is in the lawful temporary resident status
12 granted under subsection (a)—

13 (A) AUTHORIZATION OF TRAVEL
14 ABROAD.—The Attorney General shall, in accord-
15 ance with regulations, permit the alien to return
16 to the United States after such brief and casual
17 trips abroad as the Attorney General determines
18 reflect an intention on the part of the alien to
19 adjust to lawful permanent resident status under
20 paragraph (1).

21 (B) AUTHORIZATION OF EMPLOYMENT.—
22 The Attorney General shall grant the alien au-
23 thorization to engage in employment in the
24 United States and provide to that alien an “em-

1 ployment authorized" endorsement or other ap-
2 propriate work permit.

3 (c) APPLICATIONS FOR INITIAL ADJUSTMENT OF
4 STATUS.—

5 (1) TO WHOM MAY BE MADE.—The Attorney
6 General shall provide that applications for adjustment
7 of status under subsection (a) may be filed—

8 (A) with the Attorney General, or

9 (B) with a qualified designated entity, but
10 only if the applicant consents to the forwarding of
11 the application to the Attorney General.

12 As used in this section, the term "qualified designated
13 entity" means an organization or person designated
14 under paragraph (2).

15 (2) DESIGNATION OF QUALIFIED ENTITIES TO
16 RECEIVE APPLICATIONS.—For purposes of assisting in
17 the program of legalization provided under this section,
18 the Attorney General shall designate qualified organi-
19 zations and State and local governments as qualified
20 designated entities for purposes of this section.

21 (3) TREATMENT OF APPLICATIONS BY QUALI-
22 FIED DESIGNATED ENTITIES.—Each qualified designat-
23 ed entity must agree to forward to the Attorney Gen-
24 eral applications filed with it in accordance with para-
25 graph (1)(B) but not to forward to the Attorney Gener-

1 al applications filed with it unless the applicant has
2 consented to such forwarding. No such entity may
3 make a determination required by this section to be
4 made by the Attorney General.

5 (4) PENALTIES FOR FALSE STATEMENTS IN AP-
6 PPLICATIONS.—Whoever files an application for adjust-
7 ment of status under this section and knowingly and
8 willfully falsifies, misrepresents, conceals, or covers up
9 a material fact or makes any false, fictitious, or fraudu-
10 lent statements or representations, or makes or uses
11 any false writing or document knowing the same to
12 contain any false, fictitious, or fraudulent statement or
13 entry, shall be fined, or imprisoned not more than five
14 years, or both.

15 (5) APPLICATION FEES.—

16 (A) FEE SCHEDULE.—The Attorney General
17 shall prescribe a fee of \$100 or more to be paid
18 by each alien who files an application for adjust-
19 ment of status under subsection (a) or subsection
20 (b)(1).

21 (B) USE OF FEES.—The Attorney General
22 shall deposit payments received under the preced-
23 ing sentence in a separate account and amounts in
24 such account shall be available, without fiscal
25 year limitation, only to cover administrative ex-

1 penses incurred in connection with the review of
2 applications filed under this section.

3 (d) WAIVER OF NUMERICAL LIMITATIONS AND CER-
4 TAIN GROUNDS FOR EXCLUSION.—

5 (1) NUMERICAL LIMITATIONS DO NOT APPLY.—

6 The numerical limitations of section 201 and 202 of
7 the Immigration and Nationality Act shall not apply to
8 the adjustment of aliens to lawful permanent resident
9 status under this section.

10 (2) WAIVER OF GROUNDS FOR EXCLUSION.—In
11 the determination of an alien's admissibility under sub-
12 sections (a)(4)(A), (b)(1)(C)(i), and (b)(2)(B)(i)—

13 (A) GROUNDS OF EXCLUSION NOT APPLICA-
14 BLE.—The provisions of paragraphs (14), (20),
15 (21), (25), and (32) of section 212(a) of the Immi-
16 gration and Nationality Act shall not apply.

17 (B) WAIVER OF OTHER GROUNDS.—

18 (i) IN GENERAL.—Except as provided
19 in clause (ii), the Attorney General may
20 waive any other provision of section 212(a)
21 of such Act in the case of individual aliens
22 for humanitarian purposes, to assure family
23 unity, or when it is otherwise in the public
24 interest.

1 (ii) GROUNDS THAT MAY NOT BE
2 WAIVED.—The following provisions of sec-
3 tion 212(a) of such Act may not be waived
4 by the Attorney General under clause (i):

5 (I) Paragraph (9) and (10) (relating
6 to criminals).

7 (II) Paragraph (15) (relating to
8 aliens likely to become public charges)
9 insofar as it relates to an application for
10 adjustment to permanent residence.

11 (III) Paragraph (23) (relating to
12 drug offenses), except for so much of
13 such paragraph as relates to a single of-
14 fense of simple possession of 30 grams
15 or less of marihuana.

16 (IV) Paragraphs (27), (28), and
17 (29) (relating to national security and
18 members of certain organizations).

19 (V) Paragraph (33) (relating to
20 those who assisted in the Nazi persecu-
21 tions).

22 (e) TEMPORARY STAY OF DEPORTATION AND WORK
23 AUTHORIZATION DURING APPLICATION PERIOD.—The At-
24 torney General shall provide that in the case of an alien who,
25 during the application period described in subsection (a)(1),

1 presents an application for adjustment of status under subsec-
2 tion (a) which application establishes a prima facie case of
3 eligibility to have his status adjusted under such subsection,
4 and until a final administrative determination on the applica-
5 tion has been made in accordance with this section, the
6 alien—

7 (1) may not be deported, and

8 (2) shall be granted authorization to engage in
9 employment in the United States and be provided an
10 “employment authorized” endorsement or other appro-
11 priate work permit.

12 This subsection shall not be construed as preventing the At-
13 torney General from commencing deportation proceedings
14 against any alien.

15 (f) ADMINISTRATIVE AND JUDICIAL REVIEW.—

16 (1) LIMITATION ON ADMINISTRATIVE AND JUDI-
17 CIAL REVIEW.—Except as provided in paragraph (4)
18 there shall be no administrative or judicial review (by
19 class action or otherwise) of a decision or determina-
20 tion under this section.

21 (2) NO REVIEW FOR LATE FILINGS.—No denial
22 of adjustment of status under this section based on a
23 late filing of an application for such adjustment may be
24 reviewed by a court of the United States or of any

1 State or reviewed in any administrative proceeding of
2 the United States Government.

3 (3) NO COLLATERAL ATTACKS.—An alien denied
4 adjustment of status under this section may not raise a
5 claim respecting such adjustment in any proceeding of
6 the United States or any State involving the status of
7 such alien, including any proceeding of deportation or
8 exclusion under this Act.

9 (4) SINGLE LEVEL OF ADMINISTRATIVE APPEL-
10 LATE REVIEW.—The Attorney General shall establish
11 an appellate authority to provide for a single level of
12 administrative appellate review of a final determination
13 respecting an application for adjustment of status under
14 this section. Such administrative appellate review shall
15 be based solely upon the administrative record estab-
16 lished at the time of the determination on the applica-
17 tion and may not review a denial described in para-
18 graph (2).

19 (g) IMPLEMENTATION OF SECTION.—

20 (1) REGULATIONS.—The Attorney General, after
21 consultation with the Committees on the Judiciary of
22 the House of Representatives and of the Senate, shall
23 prescribe—

24 (A) regulations establishing a definition of the
25 term “resided continuously”, as used in this sec-

1 tion, and the evidence needed to establish that an
2 alien has resided continuously in the United
3 States for purposes of this section, and

4 (B) such other regulations as may be neces-
5 sary to carry out this section.

6 (2) CONSIDERATIONS.—In prescribing regulations
7 described in paragraph (1)(A)—

8 (A) PERIODS OF CONTINUOUS RESI-
9 DENCE.—The Attorney General shall specify indi-
10 vidual periods, and aggregate periods, of absence
11 from the United States which will be considered
12 to break a period of continuous residence in the
13 United States.

14 (B) ABSENCES CAUSED BY DEPORTATION
15 OR ADVANCED PAROLE.—The Attorney General
16 shall provide that—

17 (i) an alien shall not be considered to
18 have resided continuously in the United
19 States, if, during any period for which con-
20 tinuous residence is required, the alien was
21 outside the United States as a result of a de-
22 parture under an order of deportation, and

23 (ii) any period of time during which an
24 alien is outside the United States pursuant to
25 the advance parole procedures of the Service

1 shall not be considered as part of the period
2 of time during which an alien is outside the
3 United States for purposes of this section.

4 (C) WAIVERS OF CERTAIN ABSENCES.—The
5 Attorney General may provide for a waiver, in
6 the discretion of the Attorney General, of the pe-
7 riods specified under subparagraph (A) in the case
8 of an absence from the United States due merely
9 to a brief temporary trip abroad required by emer-
10 gency or extenuating circumstances outside the
11 control of the alien.

12 (D) USE OF CERTAIN DOCUMENTATION.—
13 The Attorney General shall require that—

14 (i) continuous residence and physical
15 presence in the United States must be estab-
16 lished through documents, together with in-
17 dependent corroboration of the information
18 contained in such documents, and

19 (ii) the documents provided under clause
20 (i) be employment-related if employment-re-
21 lated documents with respect to the alien are
22 available to the applicant.

23 (3) INTERIM FINAL REGULATIONS.—Regulations
24 prescribed under this section may be prescribed to take
25 effect on an interim final basis if the Attorney General

determines that this is necessary in order to implement this section in a timely manner.

(h) TEMPORARY DISQUALIFICATION OF NEWLY LEGALIZED ALIENS FROM RECEIVING CERTAIN PUBLIC ASSISTANCE.—During the six-year period beginning on the date an alien is granted lawful temporary resident status under subsection (a) and notwithstanding any other provision of law—

(1) an alien (other than a special Cuban and Haitian entrant, as defined in subsection (a)(2)(D)) granted lawful resident status under this section is not eligible for—

(A) financial assistance furnished under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need, as such programs are identified by the Attorney General in consultation with other appropriate heads of the various departments and agencies of Government,

(B) medical assistance under a State plan approved under title XIX of the Social Security Act, and

(C) assistance under the Food Stamp Act of 1977, and

1 (2) a State or political subdivision therein may, to
2 the extent consistent with paragraph (1), provide that
3 the alien is not eligible for welfare assistance furnished
4 under the law of that State or political subdivision.

5 For the purpose of section 501 of the Refugee Education
6 Assistance Act of 1980 (Public Law 96-122), assistance
7 shall be continued under such section with respect to an alien
8 without regard to the alien's adjustment of status under this
9 section. Unless otherwise specifically provided by law, an
10 alien in temporary lawful residence status granted under sub-
11 section (a) shall not be considered (for purposes of any law of
12 a State or political subdivision providing welfare assistance)
13 to be permanently residing in the United States under color
14 of law.

15 (i) MISCELLANEOUS PROVISIONS.—

16 (1) DISSEMINATION OF INFORMATION ON LE-
17 GALIZATION PROGRAM.—During the three-month
18 period beginning on the effective date of the legaliza-
19 tion program, the Attorney General, in cooperation
20 with qualified designated entities and the Secretary of
21 Labor, shall broadly disseminate information respecting
22 the benefits which aliens may receive under this sec-
23 tion and the requirements to obtain such benefits.

24 (2) PROCEDURES FOR PROPERTY ACQUISITION
25 OR LEASING.—Notwithstanding the Federal Property

1 and Administrative Services Act of 1949 (40 U.S.C.
2 471 et seq.), the Attorney General is authorized to
3 expend from the appropriation provided for the admin-
4 istration and enforcement of the Immigration and Na-
5 tionality Act, such amounts as may be necessary for
6 the leasing or acquisition of property in the fulfillment
7 of this section. This authority shall end two years after
8 the effective date of the legalization program.

9 (3) USE OF RETIRED FEDERAL EMPLOYEES.—

10 Notwithstanding any other provision of law, the retired
11 or retainer pay of a member or former member of the
12 Armed Forces of the United States or the annuity of a
13 retired employee of the Federal Government shall not
14 be reduced while such individual is temporarily em-
15 ployed by the Service for a period of not to exceed 18
16 months to perform duties in connection with the adjust-
17 ment of status of aliens under this section.

18 (4) APPLICATION OF PROVISIONS OF IMMIGRA-
19 TION AND NATIONALITY ACT.—Except as otherwise
20 specifically provided in this section, the definitions con-
21 tained in the Immigration and Nationality Act apply in
22 the administration of this section. Nothing in this sec-
23 tion shall be held to repeal, amend, alter, modify,
24 effect, or restrict the powers, duties, functions, or au-
25 thority of the Attorney General in the administration

1 and enforcement of such Act or any other law relating
2 to immigration, nationality, or naturalization. The fact
3 that an alien may be eligible to be granted lawful resi-
4 dence status under this section shall not preclude the
5 alien from seeking such a status under any other provi-
6 sion of law for which the alien may be eligible.

7 (j) **LIMITING APPLICATION OF PUBLIC LAW 89-732.**—

8 The first section of Public Law 89-732 shall not apply to any
9 alien who is first inspected and admitted or paroled into the
10 United States after the date of the enactment of this Act.

11 **SEC. 203. STATE LEGALIZATION IMPACT-ASSISTANCE GRANTS.**

12 (a) **AUTHORIZATION OF APPROPRIATIONS.**—There are
13 authorized to be appropriated to make payments to States
14 (and for related Federal administration costs) under this sec-
15 tion \$600,000,000 for each of three fiscal years, beginning
16 with the fiscal year in which the application period (described
17 in section 202(a)(1)(A)) ends.

18 (b) **CAPPED ENTITLEMENT.**—(1) The Secretary of
19 Health and Human Services (hereinafter in this section re-
20 ferred to as the “Secretary”) shall provide, in accordance
21 with this section and from the allotment for that State deter-
22 mined under paragraph (2), for payment to each of the States
23 with an application approved under this section for reim-
24 bursement of the costs—

1 (A) of public programs of assistance provided with
2 respect to eligible legalized aliens, and

3 (B) for the imprisonment of aliens who are in the
4 United States unlawfully and—

5 (i) whose most recent entry into the United
6 States was without inspection, or

7 (ii) whose most recent admission to the
8 United States was as a nonimmigrant but—

9 (I) whose period of authorized stay as a
10 nonimmigrant expired, or

11 (II) whose unlawful status was known
12 to the Government,

13 before the date of the commission of the crime for
14 which the imprisonment was imposed.

15 (2)(A) The Secretary shall establish a formula for deter-
16 mining the amount of the allotment to each State under this
17 section for each fiscal year. Such formula shall, subject to
18 subparagraph (B), take into account—

19 (i) the number of eligible legalized aliens (as de-
20 fined in subsection (i)(3)) residing in the State in that
21 fiscal year,

22 (ii) the ratio of the number of eligible legalized
23 aliens in the State to the total number of residents of
24 that State and to the total number of such aliens in all
25 the States in that fiscal year,

1 (iii) the amount of expenditures the State is likely
2 to incur in that fiscal year in providing assistance for
3 eligible legalized aliens under programs of public assist-
4 ance (as defined in subsection (i)(2)), and

5 (iv) the ratio of the amount of expenditures re-
6 ferred to in clause (iii) in the State to the total amount
7 of such expenditures in all of the States,
8 in a manner that provides for an equitable and balanced dis-
9 tribution of funds among the States.

10 (B)(i) The total of the allotments to States under this
11 section is equal to \$600,000,000 for each of the three fiscal
12 years described in subsection (a).

13 (ii) To the extent that all the funds appropriated under
14 this section for a fiscal year are not otherwise allotted to
15 States either because all the States have not qualified for
16 such allotments under this section for the fiscal year or be-
17 cause some States have indicated in their description of ac-
18 tivities that they do not intend to use the full amount of such
19 allotments in that fiscal year and the succeeding fiscal year,
20 such excess shall be allotted among the remaining States in
21 proportion to the amount otherwise allotted to such States
22 for the fiscal year without regard to this clause.

23 (2) In determining the number of eligible legalized aliens
24 for purposes of paragraph (1)(A), the Secretary may estimate

1 such number on the basis of such data as he may deem ap-
2 propriate.

3 (3) For each fiscal year the Secretary shall make pay-
4 ments, as provided by section 203 of the Intergovernmental
5 Cooperation Act of 1968 (42 U.S.C. 4213), to each State
6 from its allotment under this subsection. Any amount paid to
7 a State for a fiscal year and remaining unobligated at the end
8 of such year shall remain available for the next fiscal year to
9 such State for the purposes for which it was made.

10 (c) STATEMENTS AND ASSURANCES.—(1) No State is
11 eligible for payment under this section unless the State—

12 (A) has filed with, and had approved by, the Sec-
13 retary an application containing such information, in-
14 cluding the information described in paragraph (2) and
15 criteria for and administrative methods of disbursing
16 funds received under this section, as the Secretary de-
17 termines to be necessary to carry out this section, and

18 (B) transmits to the Secretary a statement of as-
19 surances that certifies that (i) funds allotted to the
20 State under this section will only be used to carry out
21 the purposes described in subsection (d), (ii) the State
22 will provide a fair method (as determined by the State)
23 for the allocation of funds among State and local agen-
24 cies in accordance with subsection (d)(2), and (iii) fiscal
25 control and fund accounting procedures will be estab-

1 lished that are adequate to meet the requirements of
2 subsections (e) and (f).

3 (2) The application of each State under this section for
4 each fiscal year must include detailed information on—

5 (A) the number of eligible legalized aliens residing
6 in the State, and

7 (B) the costs (excluding any such costs otherwise
8 paid from Federal funds) which the State and each lo-
9 cality is likely to incur for programs of public assist-
10 ance and for imprisonment costs described in subsec-
11 tion (b)(1)(B).

12 (d) USE OF FUNDS.—A State may use amounts paid to
13 it under this section only—

14 (1) for the purpose of providing assistance with
15 respect to eligible legalized aliens under programs of
16 public assistance and under programs of public health
17 assistance, but only to the extent such assistance is
18 otherwise available under such programs to citizens re-
19 siding in the State, and

20 (2) for the purpose of paying for costs incurred by
21 the State for the imprisonment of aliens described in
22 subsection (b)(1)(B).

23 (e) REPORTS AND AUDITS.—(1)(A) Each State shall
24 prepare and submit to the Secretary annual reports on its
25 activities under this section. In order to properly evaluate

1 and to compare the performance of different States assisted
2 under this section and to assure the proper expenditure of
3 funds under this section, such reports shall be in such form
4 and contain such information as the Secretary determines
5 (after consultation with the States and the Comptroller Gen-
6 eral) to be necessary—

7 (i) to secure an accurate description of those ac-
8 tivities,

9 (ii) to secure a complete record of the purposes for
10 which funds were spent, of the recipients of such funds,
11 and of the progress made toward achieving the pur-
12 poses of this section, and

13 (iii) to determine the extent to which funds were
14 expended consistent with subsection (d).

15 Copies of the report shall be provided, upon request, to any
16 interested public agency, and each such agency may provide
17 its views on these reports to the Congress.

18 (B) The Secretary shall annually report to the Congress
19 on activities funded under this section and shall provide for
20 transmittal of a copy of such report to each State.

21 (2)(A) Each State shall, not less often than once every
22 two years, audit its expenditures from amounts received
23 under this section. Such State audits shall be conducted by
24 an entity independent of the State agency administering a
25 program funded under this section in accordance with the

1 Comptroller General's standards for auditing governmental
2 organizations, programs, activities, and functions and gener-
3 ally accepted auditing standards. Within 30 days following
4 the completion of each audit report, the State shall submit a
5 copy of that audit report to the Secretary.

6 (B) Each State shall repay to the United States amounts
7 found by the Secretary, after notice and opportunity for a
8 hearing to the State, not to have been expended in accord-
9 ance with this section and, if such repayment is not made, the
10 Secretary may offset such amounts against the amount of any
11 allotment to which the State is or may become entitled under
12 this section or may otherwise recover such amounts.

13 (C) The Secretary may, after notice and opportunity for
14 a hearing, withhold payment of funds to any State which is
15 not using its allotment under this section in accordance with
16 this section. The Secretary may withhold such funds until the
17 Secretary finds that the reason for the withholding has been
18 removed and there is reasonable assurance that it will not
19 recur.

20 (3) The State shall make copies of the reports and audits
21 required by this subsection available for public inspection
22 within the State.

23 (4)(A) For the purpose of evaluating and reviewing the
24 assistance provided under this section, the Secretary and the
25 Comptroller General shall have access to any books, ac-

1 counts, records, correspondence, or other documents that are
2 related to such assistance, and that are in the possession,
3 custody, or control of States, political subdivisions thereof, or
4 any of their grantees.

5 (B) In conjunction with an evaluation or review under
6 subparagraph (A), no State or political subdivision thereof (or
7 grantee of either) shall be required to create or prepare new
8 records to comply with subparagraph (A).

9 (f) CRIMINAL PENALTIES FOR FALSE STATEMENTS.—

10 Whoever—

11 (1) knowingly and willfully makes or causes to be
12 made any false statement or misrepresentation of a ma-
13 terial fact in connection with the furnishing of items or
14 services for which payment may be made by a State
15 from funds allotted to the State under this section, or

16 (2) having knowledge of the occurrence of any
17 event affecting his initial or continued right to any
18 such payment conceals or fails to disclose such event
19 with an intent fraudulently to secure such payment
20 either in a greater amount than is due or when no such
21 payment is authorized,

22 shall be fined, imprisoned for not more than five years, or
23 both.

24 (g) ANTI-DISCRIMINATION PROVISION.—(1)(A) For the
25 purpose of applying the prohibitions against discrimination on

1 the basis of age under the Age Discrimination Act of 1975,
2 on the basis of handicap under section 504 of the Rehabilita-
3 tion Act of 1973, on the basis of sex under title IX of the
4 Education Amendments of 1972, or on the basis of race,
5 color, or national origin under title VI of the Civil Rights Act
6 of 1964, programs and activities funded in whole or in part
7 with funds made available under this section are considered
8 to be programs and activities receiving Federal financial as-
9 sistance.

10 (B) No person shall on the ground of sex or religion be
11 excluded from participation in, be denied the benefits of, or be
12 subjected to discrimination under, any program or activity
13 funded in whole or in part with funds made available under
14 this section.

15 (2) Whenever the Secretary finds that a State, locality,
16 or local educational agency which has been provided payment
17 from an allotment under this section has failed to comply
18 with a provision of law referred to in paragraph (1)(A), with
19 paragraph (1)(B), or with an applicable regulation (including
20 one prescribed to carry out paragraph (1)(B)), he shall notify
21 the chief executive officer of the State and shall request him
22 to secure compliance. If within a reasonable period of time,
23 not to exceed 60 days, the chief executive officer fails or
24 refuses to secure compliance, the Secretary may—

1 (A) refer the matter to the Attorney General with
2 a recommendation that an appropriate civil action be
3 instituted,

4 (B) exercise the powers and functions provided by
5 title VI of the Civil Rights Act of 1964, the Age Dis-
6 crimination Act of 1975, or section 504 of the Reha-
7 bilitation Act of 1973, as may be applicable, or

8 (C) take such other action as may be provided by
9 law.

10 (3) When a matter is referred to the Attorney General
11 pursuant to paragraph (2)(A), or whenever he has reason to
12 believe that the entity is engaged in a pattern or practice in
13 violation of a provision of law referred to in paragraph (1)(A)
14 or in violation of paragraph (1)(B), the Attorney General may
15 bring a civil action in any appropriate district court of the
16 United States for such relief as may be appropriate, including
17 injunctive relief.

18 (h) CONSULTATION WITH STATE AND LOCAL OFFI-
19 CIALS.—In establishing regulations and guidelines to carry
20 out this section, the Secretary shall consult with representa-
21 tives of State and local governments.

22 (i) DEFINITIONS.—For purposes of this section:

23 (1) The term "State" has the meaning given such
24 term in section 101(a)(36) of the Immigration and Na-
25 tionality Act.

1 (2) The term "programs of public assistance"
2 means programs in a State or local jurisdiction
3 which—

4 (A) provide for cash, medical, or other assist-
5 ance (as defined by the Secretary) designed to
6 meet the basic subsistence or health needs of indi-
7 viduals or required in the interest of public health,

8 (B) are generally available to needy individ-
9 uals residing in the State or locality, and

10 (C) receive funding from units of State or
11 local government.

12 (3) The term "eligible legalized alien" means an
13 alien who has been granted lawful resident status
14 under section 202(a), but only until the end of the six-
15 year period beginning on the date the alien was grant-
16 ed such status.

17 **TITLE III—OTHER CHANGES IN THE**
18 **IMMIGRATION LAW**

19 **SEC. 301. CHANGE IN COLONIAL QUOTA.**

20 (a) INCREASE TO 3,000.—(1) Section 202(c) (8 U.S.C.
21 1152(c)) is amended by striking out "six hundred" and insert-
22 ing in lieu thereof "3,000".

23 (2) Section 202(e) (8 U.S.C. 1152(e)) is amended by
24 striking out "600" and inserting in lieu thereof "3,000".

1 (b) EFFECTIVE DATE.—The amendments made by sub-
2 section (a) shall apply to fiscal years beginning after the date
3 of the enactment of this Act.

4 SEC. 302. VISA WAIVER PILOT PROGRAM FOR CERTAIN
5 VISITORS.

6 (a) ESTABLISHING VISA WAIVER PILOT PROGRAM.—
7 Chapter 2 of title II is amended by adding after section 216
8 (added by section 122(c) of this Act) the following new
9 section:

10 “VISA WAIVER PILOT PROGRAM FOR CERTAIN VISITORS

11 “SEC. 217. (a) ESTABLISHMENT OF PILOT
12 PROGRAM.—The Attorney General and the Secretary of
13 State are authorized to establish a pilot program (hereafter in
14 this section referred to as the ‘pilot program’) under which
15 the requirement of paragraph (26)(B) of section 212(a) may
16 be waived by the Attorney General and the Secretary of
17 State, acting jointly and in accordance with this section, in
18 the case of an alien who meets the following requirements:

19 “(1) SEEKING ENTRY AS TOURIST FOR LESS
20 THAN 90 DAYS.—The alien is applying for admission
21 during the pilot program period (as defined in subsec-
22 tion (e)) as a nonimmigrant visitor (described in section
23 101(a)(15)(B)) for a period not exceeding 90 days.

24 “(2) NATIONAL OF PILOT PROGRAM COUNTRY.—

25 The alien is a national of a country which—

1 “(A) extends (or agrees to extend) reciprocal
2 privileges to citizens and nationals of the United
3 States, and

4 “(B) is designated as a pilot program country
5 under subsection (c).

6 “(3) EXECUTES ENTRY CONTROL AND WAIVER
7 FORMS.—The alien before the time of such admis-
8 sion—

9 “(A) completes such immigration form as the
10 Attorney General shall establish under subsection
11 (b)(3), and

12 “(B) executes a waiver of review and appeal
13 described in subsection (b)(4).

14 “(4) ROUND-TRIP TICKET.—The alien has a
15 round-trip, nonrefundable, nontransferable, open-dated
16 transportation ticket which—

17 “(A) is issued by a carrier which has entered
18 into an agreement described in subsection (d), and

19 “(B) guarantees transport of the alien out of
20 the United States at the end of the alien's visit.

21 “(5) NOT A SAFETY THREAT.—The alien has
22 been determined not to represent a threat to the wel-
23 fare, health, safety, or security of the United States.

24 “(6) NO PREVIOUS VIOLATION.—If the alien pre-
25 viously was admitted without a visa under this section,

1 the alien must not have failed to comply with the con-
2 ditions of any previous admission as such a nonimmig-
3 rant.

4 “(b) CONDITIONS BEFORE PILOT PROGRAM CAN BE
5 PUT INTO OPERATION.—

6 “(1) PRIOR NOTICE TO CONGRESS.—The pilot
7 program may not be put into operation until the end of
8 the 30-day period beginning on the date that the At-
9 torney General submits to the Congress a certification
10 that the screening and monitoring system described in
11 paragraph (2) is operational and effective and that the
12 form described in paragraph (3) has been produced.

13 “(2) AUTOMATED DATA ARRIVAL AND DEPAR-
14 TURE SYSTEM.—The Attorney General in cooperation
15 with the Secretary of State shall develop and establish
16 an automated data arrival and departure control
17 system to screen and monitor the arrival into and de-
18 parture from the United States of nonimmigrant visi-
19 tors receiving a visa waiver under the pilot program.

20 “(3) VISA WAIVER INFORMATION FORM.—The
21 Attorney General shall develop a form for use under
22 the pilot program. Such form shall be consistent and
23 compatible with the control system developed under
24 paragraph (2). Such form shall provide for, among
25 other items—

1 “(A) a summary description of the conditions
2 for excluding nonimmigrant visitors from the
3 United States under section 212(a) and under the
4 pilot program,

5 “(B) a description of the conditions of entry
6 with a waiver under the pilot program, including
7 the limitation of such entry to 90 days and the
8 consequences of failure to abide by such condi-
9 tions, and

10 “(C) questions for the alien to answer con-
11 cerning any previous denial of the alien’s applica-
12 tion for a visa.

13 “(4) WAIVER OF RIGHTS.—An alien may not be
14 provided a waiver under the pilot program unless the
15 alien has waived any right—

16 “(A) to review or appeal under this Act of
17 an immigration officer’s determination as to the
18 admissibility of the alien at the port of entry into
19 the United States or

20 “(B) to contest, other than on the basis of an
21 application for asylum, any action for deportation
22 against the alien.

23 “(c) DESIGNATION OF PILOT PROGRAM COUN-
24 TRIES.—

1 “(1) UP TO 8 COUNTRIES.—The Attorney Gener-
2 al and the Secretary of State acting jointly may desig-
3 nate up to eight countries as pilot program countries
4 for purposes of the pilot program.

5 “(2) INITIAL QUALIFICATIONS.—For the initial
6 period described in paragraph (4), a country may not
7 be designated as a pilot program country unless the
8 following requirements are met:

9 “(A) LOW NONIMMIGRANT VISA REFUSAL
10 RATE FOR PREVIOUS 2-YEAR PERIOD.—The av-
11 erage number of refusals of nonimmigrant visitor
12 visas for nationals of that country during the two
13 previous full fiscal years was less than 2.0 percent
14 of the total number of nonimmigrant visitor visas
15 for nationals of that country which were granted
16 or refused during those years.

17 “(B) LOW IMMIGRANT VISA REFUSAL RATE
18 FOR EACH OF 2 PREVIOUS YEARS.— The aver-
19 age number of refusals of nonimmigrant visitor
20 visas for nationals of that country during either of
21 such two previous full fiscal years was less than
22 2.5 percent of the total number of nonimmigrant
23 visitor visas for nationals of that country which
24 were granted or refused during that year.

1 “(3) CONTINUING AND SUBSEQUENT QUALIFICA-
2 TIONS.—For each fiscal year (within the pilot program
3 period) after the initial period—

4 “(A) CONTINUING QUALIFICATION.—In the
5 case of a country which was a pilot program
6 country in the previous fiscal year, a country may
7 not be designated as a pilot program country
8 unless the sum of—

9 “(i) the total of the number of nationals
10 of that country who were excluded from ad-
11 mission or withdrew their application for ad-
12 mission during such previous fiscal year as a
13 nonimmigrant visitor, and

14 “(ii) the total number of nationals of
15 that country who were admitted as nonimmi-
16 grant visitors during such previous fiscal
17 year and who violated the terms of such
18 admission,
19 was less than 2 percent of the total number of na-
20 tionals of that country who applied for admission
21 as nonimmigrant visitors during such previous
22 fiscal year.

23 “(B) NEW COUNTRIES.—In the case of an-
24 other country, the country may not be designated

1 as a pilot program country unless the following
2 requirements are met:

3 “(i) LOW NONIMMIGRANT VISA REFUS-
4 AL RATE IN PREVIOUS 2-YEAR PERIOD.—

5 The average number of refusals of nonimmi-
6 grant visitor visas for nationals of that coun-
7 try during the two previous full fiscal years
8 was less than 2 percent of the total number
9 of nonimmigrant visitor visas for nationals of
10 that country which were granted or refused
11 during those years.

12 “(ii) LOW NONIMMIGRANT VISA REFUS-
13 AL RATE IN EACH OF THE 2 PREVIOUS
14 YEARS.—The average number of refusals of
15 nonimmigrant visitor visas for nationals of
16 that country during either of such two previ-
17 ous full fiscal years was less than 2.5 per-
18 cent of the total number of nonimmigrant
19 visitor visas for nationals of that country
20 which were granted or refused during that
21 year.

22 “(4) INITIAL PERIOD.—For purposes of para-
23 graphs (2) and (3), the term ‘initial period’ means the
24 period beginning at the end of the 30-day period de-
25 scribed in subsection (b)(1) and ending on the last day

1 of the first fiscal year which begins after such 30-day
2 period.

3 “(d) CARRIER AGREEMENTS.—

4 “(1) IN GENERAL.—The agreement referred to in
5 subsection (a)(4)(A) is an agreement between a carrier
6 and the Attorney General under which the carrier
7 agrees, in consideration of the waiver of the visa re-
8 quirement with respect to a nonimmigrant visitor under
9 the pilot program—

10 “(A) to indemnify the United States against
11 any costs for the transportation of the alien from
12 the United States if the visitor is refused admis-
13 sion to the United States or remains in the United
14 States unlawfully after the 90-day period de-
15 scribed in subsection (a)(1)(A), and

16 “(B) to submit daily to immigration officers
17 any immigration forms received with respect to
18 nonimmigrant visitors provided a waiver under
19 the pilot program.

20 “(2) TERMINATION OF AGREEMENTS.—The At-
21 torney General may terminate an agreement under
22 paragraph (1) with five days’ notice to the carrier for
23 the carrier’s failure to meet the terms of such agree-
24 ment.

1 “(e) DEFINITION OF PILOT PROGRAM PERIOD.—For
2 purposes of this section, the term ‘pilot program period’
3 means the period beginning at the end of the 30-day period
4 referred to in subsection (b)(1) and ending on the last day of
5 the third fiscal year which begins after such 30-day period.”.

6 (b) LIMITATION ON STAY IN UNITED STATES.—Sec-
7 tion 214(a) (8 U.S.C. 1184(a)) is amended by adding at the
8 end the following new sentence: “No alien admitted to the
9 United States without a visa pursuant to section 217 may be
10 authorized to remain in the United States as a nonimmigrant
11 visitor for a period exceeding 90 days from the date of
12 admission.”.

13 (c) PROHIBITION OF ADJUSTMENT TO IMMIGRANT
14 STATUS.—Section 245(c) (8 U.S.C. 1255(c)), as amended by
15 sections 113(a) and 122(e)(1) of this Act, is further amended
16 by adding at the end the following new paragraph:

17 “(5) An alien (other than an immediate relative specified
18 in section 201(b)) who was admitted as a nonimmigrant visi-
19 tor without a visa under section 212(l) or section 217.”.

20 (d) PROHIBITION OF ADJUSTMENT OF NONIMMIGRANT
21 STATUS.—Section 248 (8 U.S.C. 1258) is amended by strik-
22 ing out “and” at the end of paragraph (2), by striking out the
23 period at the end of paragraph (3) and inserting in lieu there-
24 of “, and” and by adding at the end thereof the following
25 new paragraph:

1 “(4) an alien admitted as a nonimmigrant visitor
2 without a visa under section 212(l) or section 217.”.

3 (e) CONFORMING AMENDMENT TO TABLE OF CON-
4 TENTS.—The table of contents is amended by adding after
5 the item relating to section 216 (added by section 122(f) of
6 this Act) the following new item:

 “Sec. 217. Visa waiver pilot program for certain visitors.”.

7 **SEC. 303. G-4 SPECIAL IMMIGRANTS.**

8 (a) SPECIAL IMMIGRANT STATUS FOR CERTAIN OFFI-
9 CERS AND EMPLOYEES OF INTERNATIONAL ORGANIZA-
10 TIONS AND THEIR IMMEDIATE FAMILY MEMBERS.—Sec-
11 tion 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended by striking
12 out “or” at the end of subparagraph (G), by striking out the
13 period at the end of subparagraph (H) and inserting in lieu
14 thereof “; or”, and by adding at the end of the following new
15 subparagraph:

16 “(I)(i) an immigrant who is the unmarried son or
17 daughter of an officer or employee, or of a former offi-
18 cer or employee, of an international organization de-
19 scribed in paragraph (15)(G)(i), and who (I) while
20 maintaining the status of a nonimmigrant under para-
21 graph (15)(G)(iv) or paragraph (15)(O), has resided and
22 been physically present in the United States for periods
23 totaling at least one half of the seven years before the
24 date of application for a visa or for adjustment of
25 status to a status under this subparagraph and for a

1 period or periods aggregating at least seven years be-
2 tween the ages of five and 21 years, and (II) applies
3 for admission under this subparagraph no later than his
4 twenty-fifth birthday or six months after the date this
5 subparagraph is enacted, whichever is later;

6 “(ii) an immigrant who is the surviving spouse of
7 a deceased officer or employee of such an international
8 organization, and who (I) while maintaining the status
9 of a nonimmigrant under paragraph (15)(G)(iv) or para-
10 graph (15)(O), has resided and been physically present
11 in the United States for periods totaling at least one
12 half of the seven years before the date of application
13 for a visa or for adjustment of status to a status under
14 this subparagraph and for a period or periods aggregat-
15 ing at least 15 years before the date of the death of
16 such officer or employee, and (II) applies for admission
17 under this subparagraph no later than six months after
18 the date of such death or six months after the date this
19 subparagraph is enacted, whichever is later;

20 “(iii) an immigrant who is a retired officer or em-
21 ployee of such an international organization, and who
22 (I) while maintaining the status of a nonimmigrant
23 under paragraph (15)(G)(iv), has resided and been
24 physically present in the United States for periods to-
25 taling at least one half of the seven years before the

1 date of application for a visa or for adjustment of
2 status to a status under this subparagraph and for a
3 period or periods aggregating at least 15 years before
4 the date of the officer or employee's retirement from
5 any such international organization, and (II) applies for
6 admission under this subparagraph before January 1,
7 1993, and no later than six months after the date of
8 such retirement or six months after the date this sub-
9 paragraph is enacted, whichever is later; or

10 “(iv) an immigrant who is the spouse of a retired
11 officer or employee accorded the status of special immi-
12 grant under clause (iii), accompanying or following to
13 join such retired officer or employee as a member of
14 his immediate family.”.

15 (b) NONIMMIGRANT STATUS FOR CERTAIN PARENTS
16 AND CHILDREN OF ALIENS GIVEN SPECIAL IMMIGRANT
17 STATUS.—Section 101(a)(15) (8 U.S.C. 1101(a)(15)), as
18 amended by section 122(a) of this Act, is further amended by
19 striking out “or” at the end of subparagraph (M), by striking
20 out the period at the end of subparagraph (N) and inserting in
21 lieu thereof “; or”, and by adding at the end the following
22 new paragraph:

23 “(O)(i) the parent of an alien accorded the status
24 of special immigrant under paragraph (27)(I)(i), but
25 only if and while the alien is a child, or

1 “(ii) a child of such parent or of an alien accorded
2 the status of a special immigrant under paragraph
3 (27)(I) (ii), (iii), or (iv).”.

4 TITLE IV—REPORTS

5 SEC. 401. TRIENNIAL COMPREHENSIVE REPORT ON IMMIGRA- 6 TION.

7 (a) TRIENNIAL REPORT.—The President shall transmit
8 to the Congress, not later than January 1, 1987, and not
9 later than January 1 of every third year thereafter, a com-
10 prehensive immigration-impact report.

11 (b) DETAILS IN EACH REPORT.—Each report shall
12 include—

13 (1) the number and classification of aliens admit-
14 ted (whether as immediate relatives, special immi-
15 grants, refugees, or under the preferences classifica-
16 tions, or as nonimmigrants), paroled, or granted
17 asylum, during the relevant period;

18 (2) a reasonable estimate of the number of aliens
19 who entered the United States during the period with-
20 out visas or who became deportable during the period
21 under section 241; and

22 (3) a description of the impact of admissions and
23 other entries of immigrants, refugees, asylees, and pa-
24 rolees into the United States during the period on the
25 economy, labor and housing markets, the educational

1 system, social services, foreign policy, environmental
2 quality and resources, and the population growth rate
3 of the United States.

4 (c) HISTORY AND PROJECTIONS.—The information (re-
5 ferred to in subsection (b)) contained in each report shall be—

6 (1) described for the preceding three-year period,
7 and

8 (2) projected for the succeeding five-year period,
9 based on reasonable estimates substantiated by the best
10 available evidence.

11 (d) RECOMMENDATIONS.—The President also may in-
12 clude in such report any appropriate recommendations on
13 changes in numerical limitations or other policies under title
14 II of the Immigration and Nationality Act bearing on the
15 admission and entry of such aliens to the United States.

16 **SEC. 402. REPORTS ON UNAUTHORIZED ALIEN EMPLOYMENT**
17 **AND DISCRIMINATION IN EMPLOYMENT.**

18 (a) PRESIDENTIAL REPORTS.—The President shall
19 transmit to Congress annual reports on the implementation of
20 section 274A of the Immigration and Nationality Act (relat-
21 ing to unlawful employment of aliens) during the first five
22 years after its implementation. Each report shall include—

23 (1) an analysis of the adequacy of the employment
24 verification system provided under subsection (b) of
25 that section;

1 (2) the status of the development and implementa-
2 tion of changes in that system under subsection (c) of
3 that section, including the results of any demonstration
4 projects conducted under paragraph (4) of such subsec-
5 tion; and

6 (3) the impact of the enforcement of that section
7 on—

8 (A) the employment, wages, and working
9 conditions of United States workers and on the
10 economy of the United States,

11 (B) the number of aliens entering the United
12 States illegally or who fail to maintain legal
13 status after entry, and

14 (C) the violation of terms and conditions of
15 nonimmigrant visas by foreign visitors.

16 (b) GAO REPORTS.—(1) Beginning one year after the
17 date of enactment of this Act, and at intervals of one year
18 thereafter for a period of five years after such date, the
19 Comptroller General of the United States shall prepare and
20 transmit to the Congress and to the taskforce established
21 under subsection (c) a report describing the results of a
22 review of the implementation and enforcement of section
23 274A of the Immigration and Nationality Act during the pre-
24 ceding twelve-month period, for the purpose of determining
25 if—

1 (A) such provisions have been carried out satisfac-
2 torily;

3 (B) a pattern of discrimination has resulted
4 against citizens or nationals of the United States or
5 against eligible workers seeking employment; and

6 (C) an unnecessary regulatory burden has been
7 created for employers hiring such workers.

8 (2) In each report, the Comptroller General shall make
9 a specific determination as to whether the implementation of
10 that section has resulted in a pattern of discrimination in em-
11 ployment (against other than unauthorized aliens) on the
12 basis of national origin.

13 (3) If the Comptroller General has determined that such
14 a pattern of discrimination has resulted, the report—

15 (A) shall include a description of the scope of that
16 discrimination, and

17 (B) may include recommendations for such legisla-
18 tion as may be appropriate to deter or remedy such
19 discrimination.

20 (c) REVIEW BY TASKFORCE.—(1) The Attorney Gener-
21 al, jointly with the Chairman of the Civil Rights Commission
22 and the Chairman of the Equal Employment Opportunity
23 Commission, shall establish a taskforce to review each report
24 of the Comptroller General transmitted under subsection
25 (b)(1).

1 (2) If the report transmitted includes a determination
2 that the implementation of section 274A of the Immigration
3 and Nationality Act has resulted in a pattern of discrimina-
4 tion in employment (against other than unauthorized aliens)
5 on the basis of national origin, the taskforce shall, taking into
6 consideration any recommendations in the report, report to
7 Congress recommendations for such legislation as may be ap-
8 propriate to deter or remedy such discrimination.

9 (3) The Committees on the Judiciary of the House of
10 Representatives and of the Senate shall hold hearings re-
11 specting any report of the taskforce under paragraph (2)
12 within 60 days after the date of receipt of the report.

13 **SEC. 403. REPORT ON VISA WAIVER PILOT PROGRAM.**

14 (a) **MONITORING AND REPORT PILOT PROGRAM.**—The
15 Attorney General and the Secretary of State shall jointly
16 monitor the pilot program established under section 217 of
17 the Immigration and Nationality Act and shall report to the
18 Congress not later than two years after the beginning of the
19 program.

20 (b) **DETAILS IN REPORT.**—The report shall include—

21 (1) an evaluation of the program, including its
22 impact—

23 (A) on the control of alien visitors to the
24 United States,

1 (B) on consular operations in the countries
2 designated under the program, as well as on con-
3 sular operations in other countries in which addi-
4 tional consular personnel have been relocated as a
5 result of the implementation of the program, and

6 (C) on the United States tourism industry;
7 and

8 (2) recommendations—

9 (A) on extending the pilot program period,
10 and

11 (B) on increasing the number of countries
12 that may be designated under the program.

13 **SEC. 404. PRESIDENTIAL REPORTS ON ANY LEGALIZATION**
14 **PROGRAM.**

15 (a) **IN GENERAL.**—The President shall transmit to Con-
16 gress two reports after the legalization program has been es-
17 tablished under section 202 of this Act.

18 (b) **INITIAL REPORT ON LEGALIZED ALIENS.**—The
19 first report, which shall be transmitted not later than 18
20 months after the end of the application period for adjustment
21 to lawful temporary residence status under the program, shall
22 include a description of the population whose status is legal-
23 ized under the program, including—

24 (1) geographical origins and manner of entry of
25 these aliens into the United States,

1 (2) their demographic characteristics, and

2 (3) a general profile and characteristics of the
3 population legalized under the program.

4 (c) SECOND REPORT ON IMPACT OF LEGALIZATION
5 PROGRAM.—The second report, which shall be transmitted
6 not later than three years after the date of transmittal of the
7 first report, shall include—

8 (1) the impact of the program on State and local
9 governments and on public health and medical needs of
10 individuals in the different regions of the United States,

11 (2) the patterns of employment of the legalized
12 population, and

13 (3) the participation of legalized aliens in social
14 service programs.

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